

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNAL

FIRST LEGISLATIVE DAY

FIRST CALENDAR DAY

IN ASSEMBLY

Assembly Chamber, Sacramento
Monday, May 19, 1975

At 1 p.m. the Assembly met pursuant to the provisions of the Proclamation of His Excellency, Edmund G. Brown, Jr., Governor of the State of California, dated May 16, 1975, convening the Legislature of the State of California on this day in extraordinary session.

James D. Driscoll, Chief Clerk for the 1975-76 Regular and First Extraordinary Sessions, presiding.

Assistant Clerk Ray Monday reading.

ANNOUNCEMENTS

James D. Driscoll, Chief Clerk of the Assembly, announced that pursuant to the requirements of the Government Code, Section 9150, the following officers of the Assembly of the 1975-76 Regular and First Extraordinary Sessions of the Legislature were present and in their positions.

James D. Driscoll, Chief Clerk; Anabel Fleury, Minute Clerk, and Tony Beard, Sergeant at Arms.

ROLL CALL

The roll was called, and the following answered to their names—68:

Alatorre	Cullen	Keyser	Papan
Antonovich	Davis	Laucaster	Perino
Arnett	Deedeh	Lauterman	Priolo
Badham	Dixon	Lewis	Ralph
Baue	Duffy	Lockyer	Robinson
Banna	Egeland	MacDonald	Rosenthal
Berman	Fenton	McAlister	Stegler
Boatwright	Fovan	McLennan	Stutt
Briggs	Garamendi	McVittie	Thomas, Vincent
Burke	Goggin	Meade	Thomas, William
Calvo	Greene	Miller	Thurman
Carpenter	Gualco	Mobley	Vasconcellos
Chacon	Hart	Moutoya	Vicencia
Chappie	Hayden	Mori	Warren
Chimhole	Ingalls	Murphy	Wornum
Cline	Kapiloff	Nestande	Zberg
Collier	Keene	Nimmo	Mr. Speaker

Quorum present.

PRAYER

Upon invitation of the Chief Clerk, the following prayer was offered by Father Leo McAllister, Chaplain of the Assembly for the 1975-76 Regular and First Extraordinary Sessions

Lord, In Your creation, You have given to humans alone a place of preeminence. You have also entrusted to us the responsibility by way of privilege, to care for all of Your handiwork. It is ironic that we who are so blessed with the gift of intellect and will should need more husbanding than the rest of Your creation. As we see the need to face each responsibility help us to be motivated by Your Spirit so that we may establish a social order founded on truth, built on justice, and animated by love. May Your Spirit, Father, which directs the unfolding of time and renews the face of the earth, be present in this development --AMEN

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of the Chief Clerk, Mr. Vincent Thomas then led the Assembly in the pledge of allegiance to the Flag.

LEAVES OF ABSENCE FOR THE DAY

The following Member was granted leave of absence for the day, because of illness:

Mr. Tucker, on request of Speaker McCarthy.

The following Members were granted leaves of absence for the day, on personal business, and desired to waive their per diem:

Mr. Knox, on request of Speaker McCarthy

Mr. Torres, on request of Speaker McCarthy

PROCLAMATION OF THE GOVERNOR

The Chief Clerk directed that the following Proclamation of the Governor convening the Legislature in extraordinary session be read:
Executive Department, State of California

PROCLAMATION

The cost of medical malpractice insurance has risen to levels which many physicians and surgeons find intolerable. The inability of doctors to obtain such insurance at reasonable rates is endangering the health of the people of this State, and threatens the closing of many hospitals. The longer term consequences of such closings could seriously limit the health care provided to hundreds of thousands of our citizens.

In my judgment, no lasting solution is possible without sacrifice and fundamental reform. It is critical that the Legislature enact laws which will change the relationship between the people and the medical profession, the legal profession and the insurance industry, and thereby reduce the costs which underlie these high insurance premiums.

Therefore, in convening this extraordinary session, I ask the Legislature to consider

- 1 Reconstituting the Board of Medical Examiners to include a majority of public members.
- 2 Giving the board full authority to discipline and decertify practitioners for lack of competency.

3. Providing the board with authority to set recertification standards, including updated training and public service, in order to minimize malpractice and increase the quality of medical care.
4. Providing the board with authority to develop a system to minimize the present maldistribution of medical care in certain areas of the state.
5. Establishing a Medical Peace Corps to serve Californians who lack adequate medical care.
6. Regulation of hospital rates, including authority over excessive hospital bed capacity and unnecessary duplication of expensive and under-utilized equipment.
7. Voluntary binding arbitration in order to quickly and fairly resolve malpractice claims while maintaining fair access to the courts.
8. Establishment of reasonable limits on the amount of contingency fees charged by attorneys.
9. Elimination of double payments ("collateral sources"); institution of periodic payments and reversionary trusts; limitation of compensation for pain and suffering while insuring fully adequate compensation for all medical costs and loss of earnings, and setting a reasonable statute of limitations for the filing of malpractice claims.

In addition, I intend to:

- a) Convene a Special Panel to immediately conduct a complete investigation into all insurance company rates and reserve practices and;
- b) Support legislation in the regular session to insure adequate public representation on all professional boards, including the Board of Governors of the California State Bar.

Therefore, by virtue of Article IV, Section 3 of the Constitution, I hereby assemble the Legislature of the State of California in extraordinary session at Sacramento at 1:00 p.m. Monday, May 19, 1975, to consider and act on this legislation.

In witness whereof, I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 16th day of May, 1975.

EDMUND G BROWN JR.

Governor of California

MARCH FONG EU

Secretary of State

By Michael S. Gagan

Deputy Secretary of State

(SEAL) ATTEST:

ANNOUNCEMENTS

The Chief Clerk announced that the next order of business was the nomination and election of officers for the 1975-76 Second Extraordinary Session of the Assembly, and declared that nominations for officers of the Assembly were now in order.

RESOLUTIONS

The following resolution was offered:

By Assemblyman Berman:

House Resolution No. 1

Relative to the election of Assembly officers

Resolved by the Assembly of the State of California, That the following named persons constitute the officers of the Assembly for the 1975-76 Second Extraordinary Session:

Honorable Leo T. McCarthy	Speaker
Honorable Louis J. Papan	Speaker pro Tempore
James D. Driscoll	Chief Clerk
Tony Beard	Sergeant at Arms
Father Leo McAllister	Chaplain

Resolution read, presented by Mr. Dixon, and, on motion of Mr. Dixon, adopted by the following vote:

AYES—46

Antonovich	Dixon	Keysor	Papan
Arnett	Egeland	Lancaster	Priolo
Bannai	Fenton	Lockyer	Ralph
Boatwright	Garmendi	MacDonald	Rosenthal
Briggs	Goggin	McAhter	Siegler
Calvo	Gualco	McLennan	Suitt
Chappie	Hart	McVittie	Thomas, Vincent
Chimbole	Hayden	Miller	Thomas, William
Cline	Infalls	Mobley	Vasconcellos
Collier	Kapiloff	Mori	Wornum
Davis	Keene	Nimmo	Mr. Speaker
Deddeh			

NOES—None

Whereupon, the Chief Clerk announced the vote of the Assembly and declared the following as the choice of the Assembly for officers for the 1975-76 Second Extraordinary Session: Hon. Leo T. McCarthy, Speaker, Hon. Louis J. Papan, Speaker pro Tempore; James D. Driscoll, Chief Clerk; Tony Beard, Sergeant at Arms; and Father Leo McAllister, Chaplain.

APPOINTMENT OF COMMITTEE ON ESCORT

The Chief Clerk appointed Mr. Briggs as a Select Committee to escort Speaker-elect McCarthy and Speaker pro Tempore-elect Papan to the Rostrum.

OATHS OF OFFICE ADMINISTERED

Hon. Leo T. McCarthy, Speaker-elect; Hon. Louis J. Papan, Speaker pro Tempore-elect; James D. Driscoll, Chief Clerk-elect; Tony Beard, Sergeant at Arms-elect; and Father Leo McAllister, Chaplain-elect, appeared at the bar of the Assembly and took and subscribed to the following oath, administered by George Murphy, Legislative Counsel:

Oath

I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear

true faith and allegiance to the Constitution of the United States and the Constitution of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter

Speaker Presiding

At 1 29 p m , Hon Leo T McCarthy, 18th District, presiding.

APPOINTMENT OF SELECT COMMITTEES

Speaker McCarthy appointed Messrs Dixon, Arnett and Calvo, as a Select Committee to notify the Senate that the Assembly is organized for the 1975-76 Second Extraordinary Session of the Legislature and ready to proceed with the regular business

Speaker McCarthy appointed Messrs Kapiloff, Gualco, Keysor, Rosenthal, and Mrs Davis as a Select Committee to notify His Excellency, Edmund G Brown Jr, Governor of the State of California, that the Assembly is organized for the 1975-76 Second Extraordinary Session and ready to proceed with the regular business

RESOLUTIONS

The following resolutions were offered:

By Assemblyman Ralph:

House Resolution No. 2

Relative to the Assembly Rules

Resolved by the Assembly of the State of California, That the Permanent Standing Rules of the Assembly for the 1975-76 Regular Session are hereby adopted as the rules for the 1975-76 Second Extraordinary Session

Resolution read, and on motion of Mr. Ralph, adopted by the following vote

AYES—45

Antonovich	Egeland	Loekyer	Ralph
Arnett	Fenton	McAlister	Rosenthal
Bannai	Form	McLennan	Siegler
Bontwright	Garamendi	McVittie	Suttr
Bugss	Gozzin	Miller	Thomas, Vincent
Chacon	Gualco	Mohley	Thomas, William
Chappee	Hart	Montoya	Thuman
Chimbole	Hayden	Mori	Vasconcellos
Cline	Jagalls	Nunno	Worrum
Coller	Keene	Papan	Zberg
Deddeh	Lancaster	Priolo	Mr Speaker
Duffy			

NOES—None

By Assemblyman Ralph

House Resolution No. 3

Relative to organization of the Assembly for the 1975-76 Second Extraordinary Session

Resolved by the Assembly of the State of California, (1) That the Chief Clerk or the Sergeant at Arms be and they are hereby authorized to receipt to the Controller for all warrants for the payment of Members, Officers, and Attachés of the Assembly.

(2) That the Chief Clerk is authorized to receipt from the Members of the Assembly, a mailing list of Histories, to be directed to libraries, chambers of commerce, and other public centers, and to individuals for general inspection. This list is to be limited to ten (10) names each, and shall be forwarded to the Legislative Bill Room for regular mailing. No member shall include on the list any state department or employee thereof except state colleges and universities. The Chief Clerk is further authorized to place accredited newspaper representatives on the regular mailing list as well as the Attorney General, the office of the Legislative Counsel, and the Governor's Office.

Request for Unanimous Consent

Mr. Ralph was granted unanimous consent to take up House Resolution No. 3 without reference to committee or file.

Resolution read, and adopted by the following vote:

AYES—41

Antonovich	Egeland	McAlister	Ralph
Arnett	Fenton	McLennan	Rosenthal
Bannai	Foran	McVittie	Siegler
Boatwright	Garamendi	Miller	Stitt
Buggs	Goggin	Mobley	Thomas, Vincent
Chappie	Hart	Montoya	Thomas, William
Chunbole	Hayden	Mori	Vasconcellos
Cline	Keene	Nimmo	Worrum
Collier	Lancaster	Papan	Zberg
Deddeh	Lockyer	Piolo	Mr. Speaker
Duffy			

NOES—None

REQUEST FOR UNANIMOUS CONSENT TO TEMPORARILY SUSPEND THE RULES

Speaker McCarthy was granted unanimous consent that Assembly Rule 47, which requires the calling of the roll from A to Z for the purpose of introduction of bills, be temporarily suspended.

APPOINTMENT OF COMMITTEES

Speaker McCarthy was granted unanimous consent that the following committees be appointed for the 1975-76 Second Extraordinary Session, with the same membership and chairman as for the 1975-76 Regular Session.

Ways and Means—Foran (Chairman), Lanterman (Vice Chairman), Berman, Boatwright, Burke, Chacon, Chappie, Davis, Deddeh, Duffy, Lewis, MacDonald, McAlister, Maddy Miller, Papan, Sienoty, Warren, and Zberg.

Finance, Insurance, and Commerce—McAlister (Chairman), Garamendi (Vice Chairman), Bane, Bannai, Beverly, Goggin, Greene, Hayden, Ingalls, Lancaster, Miller, Papan, Ralph, Robison, and Wilson.

Health—Keene (Chairman), Egeland (Vice Chairman), Duffy, Garamendi, Hart, Ingalls, Keyser, Lanterman, McLennan, Ralph, and Rosenthal.

Judiciary—Miller (Chairman), Chel (Vice Chairman), Badham, Bannai, Beverly, Boatwright, Keene, McAlister, McVittie, Torres, and Wilson

Revenue and Taxation—Boatwright (Chairman), McVittie (Vice Chairman), Alatorre, Bannai, Calvo, Chel, Chme, Kapiloff, Lewis, Lockyear, Mori, Murphy, and Robinson

Rules—Ralph (Chairman), Mobley (Vice Chairman), Burke, Chappie, Davis, MacDonald, and Montoya

INTRODUCTION, FIRST READING, AND REFERENCE OF ASSEMBLY BILLS

The following bills were introduced, read the first time, and ordered held at the Desk:

Assembly Bill No. 1: By Assemblymen Keene, McAlister, Berman, Egeland, Antonovich, Bannai, Calvo, Chappie, Garamendi, Goggin, Hart, Lockyer, MacDonald, Mori, Papan, Rosenthal, Siegler Sutt, and Wornum—An act to amend Sections 125 5, 2100, 2101, 2361, 2362, 2364, and 2372 5 of, to add Sections 2100 5, 2100 6, 2100 7, 2100 8, 2101 5, 2101 6, 2122, 2372, 2372 1, and 2372 5 to, to add Article 2 3 (commencing with Section 2123) and Article 2 4 (commencing with Section 2124 5) to Chapter 5 of Division 2 of, to repeal Section 2372 of, and to repeal Article 2 3 (commencing with Section 2123) of Chapter 5 of Division 2 of, the Business and Professions Code, to amend Section 340 5 of, and to add Section 340 6 to, the Code of Civil Procedure, to add Division 17 (commencing with Section 21005) to the Health and Safety Code; and to add Section 11587 to the Insurance Code, relating to health, and making an appropriation therefor

Assembly Bill No. 2: By Assemblymen Keene, Berman, Calvo, Chacon, Chappie, Egeland, Garamendi, Goggin, Hart, Lockyer, MacDonald, Mori, Sutt, and Wornum—An act to amend Sections 441 18, 442 11, and 1265 5 of, to add Part 5 (commencing with Section 1199) to Division 1 of, and to repeal Part 1 5 (commencing with Section 437) of Division 1 of, the Health and Safety Code, relating to health services and facilities.

Assembly Bill No. 3: By Assemblyman Banc—An act to add Division 29 (commencing with Section 39900) to the Health and Safety Code, relating to medical malpractice, and making an appropriation therefor

Assembly Bill No. 4: By Assemblyman Goggin—An act to add Division 18 (commencing with Section 22000) to the Health and Safety Code, relating to health, and making an appropriation therefor

MESSAGES FROM THE SENATE

Senate Chamber, May 19, 1975

Mr. Speaker: I am directed to inform your honorable body that the Senate on this day adopted

Senate Concurrent Resolution No. 1

DARRYL R. WHITE Secretary of the Senate
By John W. Rovane, Chief Assistant Secretary

FIRST READING AND REFERENCE OF SENATE BILLS

The following resolution was read:

Senate Concurrent Resolution No. 1—Relative to the Joint Rules of the Senate and Assembly.

Hon. John F. Foran Presiding

At 1.37 p m , Hon John F Foran, 16th District, presiding.

**REQUEST FOR UNANIMOUS CONSENT TO TAKE UP
SENATE CONCURRENT RESOLUTION NO. 1**

Mr Ralph was granted unanimous consent to take up Senate Concurrent Resolution No 1 without reference to committee, print, or file.

Consideration of Senate Concurrent Resolution No. 1

Senate Concurrent Resolution No. 1—Relative to the Joint Rules of the Senate and Assembly.

Resolution read, presented by Mr Ralph, and adopted by the following vote:

AYES—60

Antonovich	Cullen	Keene	Papan
Arnett	Davis	Keyser	Priolo
Badham	Deddeh	Lancaster	Ralph
Bane	Dixon	Lanterman	Robinson
Banna	Duffy	Lewis	Rosenthal
Bostwright	Egeland	Lockyer	Siegler
Buggs	Fenton	McAlister	Sutt
Burke	Foran	McVittie	Thomas, Vincent
Calvo	Garamendi	Meade	Thomas, William
Carpenter	Goggin	Miller	Thurman
Chacon	Gualco	Mobley	Vasconcellos
Chappie	Hart	Mori	Vicencia
Chimbole	Hayden	Murphy	Wornum
Clune	Ingalls	Nestande	Z'berg
Collier	Kapiloff	Nimmo	Mr. Spenker

NOES—None

Resolution ordered transmitted to the Senate.

Speaker Presiding

At 1.43 p m , Hon Leo T McCarthy, 18th District, presiding

RECESS

At 1:44 p m , Speaker McCarthy declared the Assembly recessed.

REASSEMBLED

At 4 45 p m , the Assembly reconvened

Hon Leo T McCarthy, Speaker of the Assembly, presiding.

REFERENCE OF BILLS TO COMMITTEE

Pursuant to the Assembly Rules, the following bills were referred to committee

<i>Assembly Bill No</i>	<i>Committee</i>
1-----	Judiciary
2-----	Health
4-----	Health

ADJOURNMENT

At 4 46 p m, Speaker McCarthy declared the Assembly adjourned until 9 a m, Tuesday, May 20, 1975

LEO T McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNAL

SECOND LEGISLATIVE DAY

SECOND CALENDAR DAY

IN ASSEMBLY

Assembly Chamber, Sacramento
Tuesday, May 20, 1975

The Assembly met at 10:33 a.m.

Hon. Louis J. Papan, Speaker pro Tempore of the Assembly, presiding

Chief Clerk James D. Driscoll at the Desk.

Assistant Clerk Ray Monday reading

ROLL CALL

The roll was called, and the following answered to their names—72:

Alatorre	Chimbole	Ingalls	Nimmo
Antonovich	Cline	Kapiloff	Papan
Arnett	Collier	Keyser	Perrino
Badham	Craven	Lancaster	Priolo
Bane	Cullen	Lanterman	Ralph
Banna	Davis	Lewis	Rosenthal
Berman	Deedeh	Lockyer	Siegler
Beverly	Dixon	MacDonald	Sieroty
Bontwright	Duffy	Maddy	Sutt
Briggs	Egeland	McAlister	Thomas, Vincent
Brown	Fenton	McLennan	Thomas, William
Burke	Feran	McVittie	Thurman
Calvo	Garamendi	Meade	Vasconcellos
Campbell	Goggin	Miller	Vieencia
Carpenter	Greene	Mobley	Wilson
Chacon	Gualeo	Montoya	Worrum
Chappie	Hart	Mori	Z'berg
Chel	Hayden	Murphy	Mr. Speaker

Quorum present.

REGULAR BUSINESS DISPENSED WITH

By unanimous consent, the regular order of business of the Assembly was dispensed with for this legislative day.

LEAVES OF ABSENCE FOR THE DAY

The following Member was granted leave of absence for the day, because of illness:

Mr. Tucker, on request of Speaker pro Tempore Papan.

The following Members were granted leaves of absence for the day, on personal business, and desired to waive their per diem:

Mr. Keene, on request of Speaker pro Tempore Papan.

Mr. Knox, on request of Speaker pro Tempore Papan

Mr. Nestande, on request of Speaker pro Tempore Papan.

Mr. Robinson, on request of Speaker pro Tempore Papan.

Mr. Torres, on request of Speaker pro Tempore Papan

Mr. Warren, on request of Speaker pro Tempore Papan.

NOTE For letter explaining the absence of Mr. Warren on this day, see Assembly Daily Journal for the Regular Session for this day

REFERENCE OF BILLS TO COMMITTEE

Pursuant to the Assembly Rules, the following bill was referred to committee.

*Assembly
Bill No.*

Committee

3..... Finance, Insurance, and Commerce

RECESS

At 10 34 a m , Speaker pro Tempore Papan declared the Assembly recessed.

REASSEMBLED

At 3 16 p m , the Assembly reconvened.

Hon. Leo T. McCarthy, Speaker of the Assembly, presiding

ADJOURNMENT

At 3 17 p m , Speaker McCarthy declared the Assembly adjourned until 9 a.m , Wednesday, May 21, 1975.

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNAL

THIRD LEGISLATIVE DAY

THIRD CALENDAR DAY

IN ASSEMBLY

Assembly Chamber, Sacramento
 Wednesday, May 21, 1975

The Assembly met at 10:33 a.m.

Hon Robert P. Nimmo, Member of the Assembly, 29th District, presiding.

Chief Clerk James D Driscoll at the Desk

Assistant Clerk Ray Monday reading

ROLL CALL

The roll was called, and the following answered to their names—73.

Alatorre	Collier	Keysor	Papan
Antonovich	Cullen	Lancaster	Perino
Arnett	Davis	Lanterman	Priolo
Budham	Deddeh	Lewis	Ralph
Bane	Dixon	Lockyer	Robinson
Bannai	Duffy	MacDonald	Rosenthal
Berman	Egeland	Maddy	Siegler
Beverly	Fenton	McAlister	Sieroty
Boatwright	Foran	McLennan	Thomas, Vincent
Briggs	Garamendi	McVittie	Thomas, William
Burke	Goggin	Mende	Thurman
Calvo	Greene	Miller	Torres
Campbell	Gualco	Mobley	Vasconcellos
Carpenter	Hart	Montoya	Viceneira
Chacon	Hayden	Mori	Wilson
Chappie	Ingalls	Murphy	Wornum
Chel	Kaploff	Nestande	Z'berg
Chimbole	Keene	Nimmo	Mt Speaker
Chne			

Quorum present.

REGULAR BUSINESS DISPENSED WITH

By unanimous consent, the regular order of business of the Assembly was dispensed with for this legislative day.

LEAVES OF ABSENCE FOR THE DAY

The following Members were granted leaves of absence for the day, because of illness

Mr Craven, on request of Acting Speaker Nimmo.
Mr Tucker, on request of Acting Speaker Nimmo

The following Members were granted leaves of absence for the day, on personal business, and desired to waive their per diem .

Mr Brown, on request of Acting Speaker Nimmo
Mr Knox, on request of Acting Speaker Nimmo
Mr Suitt, on request of Acting Speaker Nimmo.
Mr. Warren, on request of Acting Speaker Nimmo

NOTE: For letter explaining the absence of Mr. Warren on this day, see Assembly Daily Journal for the Regular Session for May 20, 1975, page 5236

INTRODUCTION, FIRST READING, AND REFERENCE OF ASSEMBLY BILLS

The following bills were introduced, read the first time, and ordered held at the Desk .

Assembly Bill No. 5: By Assemblyman Duffy—An act to amend Sections 125 5, 2100, 2101, 2119, 2361, 2362, 2364, 2372 5, 2436, and 2454, of, to add Article 11 (commencing with Section 800) to Chapter 1 of Division 2 of, Sections 2100 5, 2100 6, 2100 7, 2100 8, 2101 5, 2122 to, Article 2 3 (commencing with Section 2123) to Chapter 5 of Division 2 of, and Sections 2372, and 2372.1 to, and to repeal Article 11 (commencing with Section 800) of Chapter 1 of Division 2 of, Article 2 3 (commencing with Section 2123) of Chapter 5 of Division 2 of, and Section 2372 of, the Business and Professions Code, relating to the healing arts, and making an appropriation therefor

Assembly Bill No. 6: By Assemblyman Goggin—An act relating to physicians and surgeons and making an appropriation therefor.

RECESS

At 10 34 a m., Acting Speaker Nimmo declared the Assembly recessed

REASSEMBLED

At 2:47 p m , the Assembly reconvened.

Hon Robert P Nimmo, Member of the Assembly, 29th District, presiding

ADJOURNMENT

At 2 48 p m , Acting Speaker Nimmo declared the Assembly adjourned until 1 p m , Thursday, May 22, 1975.

LEO T McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNAL

FOURTH LEGISLATIVE DAY

FOURTH CALENDAR DAY

IN ASSEMBLY

Assembly Chamber, Sacramento
Thursday, May 22, 1975

The Assembly met at 4.13 p m.

Hon Louis J Papan, Speaker pro Tempore of the Assembly, presiding

Chief Clerk James D Driscoll at the Desk.

Assistant Clerk Ray Monday reading.

ROLL CALL

The roll was called, and the following answered to their names—73.

Alatorre	Collier	Keyser	Perrino
Antonovich	Cullen	Lancaster	Priolo
Arnett	Davis	Lanterman	Ralph
Bane	Deddeh	Lewis	Robinson
Bannai	Dixon	Lockyer	Rosenthal
Berman	Duffy	MacDonald	Siegler
Beverly	Egeland	Maddy	Sieroty
Boatwright	Fenton	McAlister	Sutt
Briggs	Foran	McLennan	Thomas, Vincent
Brown	Garamendi	McVittie	Thomas, Wilham
Burke	Goggin	Meade	Thurman
Calvo	Greene	Miller	Torres
Campbell	Gualco	Mobley	Vasconcellos
Carpenter	Hart	Montoya	Vicencia
Chacon	Hayden	Mori	Wilson
Chappie	Ingalls	Murphy	Wornum
Chel	Kapiloff	Nimmo	Z'berg
Chimbole	Keene	Papan	Mr Speaker
Cline			

Quorum present.

PRAYER

Upon invitation of Speaker pro Tempore Papan, the following prayer was offered by Honorable Ken MacDonald, Member, 36th Assembly District

God Our Father, We stand before You today as humble men and women seeking Thy wisdom to decide the difficult issues. We appear to be at a crossroads in the course of our society. Help us to stand firm against the special interests who would prevail without thought of the consequences upon others. Help us to reorder our priorities in keeping with the standards of general public interest and economic and social reality. Bless our legislative leadership and Governor Brown in guiding our steps to fair and equitable solutions to problems. Finally, rekindle our faith in You, O God—AMEN

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker pro Tempore Papan, Mr. Miller then led the Assembly in the pledge of allegiance to the Flag.

MOTION TO DISPENSE WITH READING OF THE JOURNAL

Further reading of the Journal of the previous legislative day was dispensed with on motion of Mr. Hayden, seconded by Mr. Foran.

LEAVES OF ABSENCE FOR THE DAY

The following Members were granted leaves of absence for the day, because of illness:

Mr. Craven, on request of Speaker pro Tempore Papan
Mr. Tucker, on request of Speaker pro Tempore Papan.

The following Member was granted leave of absence for the day, on legislative business:

Mr. Warren, on request of Speaker pro Tempore Papan.

The following Members were granted leaves of absence for the day, on personal business, and desired to waive their per diem:

Mr. Badham, on request of Speaker pro Tempore Papan
Mr. Knox, on request of Speaker pro Tempore Papan
Mr. Nestande, on request of Speaker pro Tempore Papan.

NOTE: For letter explaining the absence of Mr. Warren on this day on legislative business pursuant to the Assembly Rules, see Assembly Daily Journal for the Regular Session for this day.

INTRODUCTION, FIRST READING, AND REFERENCE
OF ASSEMBLY BILLS

The following bills were introduced, read the first time, and ordered held at the Desk:

Assembly Bill No. 7: By Assemblymen Z'berg and Kapiloff—An act to amend Section 1021 of, and to add Section 1021.1 to, the Code of Civil Procedure, relating to malpractice actions.

Assembly Bill No. 8: By Assemblymen Carpenter and Kapiloff—An act to add Division 5 (commencing with Section 14000) to the Insurance Code, relating to medical malpractice, and making an appropriation therefor

REFERENCE OF BILLS TO COMMITTEE

Pursuant to the Assembly Rules, the following bills were referred to committee:

<i>Assembly Bill No.</i>	<i>Committee</i>
5 -----	Health
6-----	Health

ANNOUNCEMENTS

Speaker pro Tempore Papan announced that there would be a special joint meeting of the Committees on Health and Judiciary on June 5, 1975, at 7.30 p m

ADJOURNMENT

At 4 14 p.m., Speaker pro Tempore Papan declared the Assembly adjourned until 11 a.m., Friday, May 23, 1975.

LEO T McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNAL

FIFTH LEGISLATIVE DAY

FIFTH CALENDAR DAY

IN ASSEMBLY

Assembly Chamber, Sacramento
Friday, May 23, 1975

The Assembly met at 12 34 p m.

Hon Leo T. McCarthy, Speaker of the Assembly, presiding

Chief Clerk James D Driscoll at the Desk.

Assistant Clerk Ray Monday reading.

ROLL CALL

The roll was called, and the following answered to their names—73:

Antonovich	Collier	Kevor	Papan
Arnett	Cullen	Lancaster	Perino
Badham	Davis	Lauterman	Priolo
Bane	Deddeh	Lewis	Ralph
Bannai	Dixon	Lockyer	Rosenthal
Berman	Duffy	MacDonald	Siegler
Beverly	Egeland	Maddy	Sieroty
Boatwright	Fenton	McAlister	Sutti
Biggs	Foran	McLennan	Thomas, Vincent
Brown	Garamendi	McVittie	Thomas, William
Burke	Goggin	Meade	Thurman
Calvo	Greene	Miller	Torres
Campbell	Gualco	Mobley	Vasconcellos
Carpenter	Hart	Moutoua	Vieucia
Chacon	Hayden	Mori	Wilson
Chappie	Ingalls	Murphy	Wornum
Chel	Kapiloff	Nestande	Z'berg
Chumhole	Keene	Nimmo	Mr. Speaker
Cline			

Quorum present.

PRAYER

Upon invitation of Speaker McCarthy, the following prayer was offered by the Honorable Ernest N. Mobley, Member, 31st Assembly District:

Father, This morning we ask Your blessing on all who are assembled here. We ask You to watch over this legislative body as we work for the welfare of society. You are ever aware of our hopes and our needs and we beg You to give us guidance so that we may carry out Your work with dedication and love.

We thank You for this beautiful State of California, for her parks, streams, ocean sky, and fertile soil. We thank You for giving us opportunities to enjoy the wonders of Your making. We ask You to watch over all of Your children on this holiday weekend to get them safely to their destinations and homes. We ask Your blessings for those who gave their lives so this country may be free, to watch over our servicemen and women who served so bravely and who reside in our hospitals, for those who will go through life handicapped. Grant us the ability to live peacefully among our fellow men. Look kindly upon us and give us peace.—AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker McCarthy, Mr Rosenthal then led the Assembly in the pledge of allegiance to the Flag.

READING OF THE JOURNAL DISPENSED WITH

By unanimous consent, reading of the Journal of the previous legislative day was dispensed with.

LEAVES OF ABSENCE FOR THE DAY

The following Members were granted leaves of absence for the day, because of illness:

Mr. Craven, on request of Speaker McCarthy.
Mr. Robinson, on request of Speaker McCarthy.
Mr. Tucker, on request of Speaker McCarthy.

The following Member was granted leave of absence for the day, on legislative business:

Mr. Warren, on request of Speaker McCarthy.

The following Member was granted leave of absence for the day, on personal business, and desired to waive his per diem:

Mr. Knox, on request of Speaker McCarthy.

The following Member was granted leave of absence for the day, because of illness in his family:

Mr. Alatorre, on request of Speaker McCarthy.

NOTE: For letter explaining the absence of Mr. Warren on this day on legislative business pursuant to the Assembly Rules, see Assembly Daily Journal for the Regular Session for May 22, 1975, page 5415.

REFERENCE OF BILLS TO COMMITTEE

Pursuant to the Assembly Rules, the following bills were referred to committee:

<i>Assembly Bill No.</i>	<i>Committee</i>
7	Judiciary
8	Finance, Insurance, and Commerce

**INTRODUCTION, FIRST READING, AND REFERENCE
OF ASSEMBLY BILLS**

The following bills were introduced, read the first time, and ordered held at the Desk:

Assembly Bill No. 9: By Assemblyman McLennan—An act to add Chapter 8 (commencing with Section 465) to Division 1 of the Business and Professions Code, to amend Section 3333 of, and to add Article 5 (commencing with Section 3361) to Chapter 2 of Title 2 of Part 1 of Division 4 of, the Civil Code and to add Section 667.5 to the Code of Civil Procedure, relating to medical malpractice, and making an appropriation therefor

Assembly Bill No. 10: By Assemblymen Goggin, Bane, Berman, Boatwright, Calvo, Egeland, Gualco, Hart, Kapiloff, Miller, Papan, Rosenthal, Sieroty, Wilson, and Z'berg—An act to add Article 8 (commencing with Section 1325) to Chapter 2 of Division 2 of the Health and Safety Code, relating to health, and declaring the urgency thereof, to take effect immediately.

ASSEMBLY BILL NO. 10 REFERRED TO COMMITTEE

Speaker McCarthy referred Assembly Bill No. 10 to the Committee on Finance, Insurance, and Commerce.

AUTHOR'S AMENDMENTS

Committee on Health

Assembly Chamber, May 23, 1975

Mr. Speaker, The Chairman of your Committee on Health reports:

Assembly Bill No. 2

With author's amendments with the recommendation Amend, and refer to the Committee on Health

KEENE, Chairman

Assembly Bill No. 2—An act to amend Sections 441.18, 442.11, and 1265.5 of, to add Part 5 (commencing with Section 1199) to Division 1 of, and to repeal Part 1.5 (commencing with Section 437) of Division 1 of, the Health and Safety Code, relating to health services and facilities
Bill read second time.

Consideration of Author's Amendments

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted

Amendment 1

In line 3 of the heading of the printed bill, strike out "and Wornum", and insert "Wornum, Boatwright, Keysor, Rosenthal, and Vincent Thomas"

Amendment 2

In line 1 of the title, strike out “, 442.11,”.

Amendment 3

In line 2 of the title, after the comma, insert “to repeal Section 442.11 of,”.

Amendment 4

On page 4, strike out lines 33 to 40, inclusive; and on page 5, strike out lines 1 to 6, inclusive, and insert “is repealed”

Amendment 5

On page 12, between lines 14 and 15, insert
“(t) ‘Rates’ means the allowable charges for care in facilities defined in subdivisions (e), (f), and (h) of this section.”

Amendment 6

On page 12, line 20, after “93-641”, insert “and to establish a system to retard cost increases in health facilities”.

Amendment 7

On page 13, between lines 25 and 26, insert
“(h) To establish rates for care of patients in facilities defined in subdivisions (e), (f), and (h) of Section 1199.2”

Bill ordered reprinted, and to be re-referred to the Committee on Health.

REFERENCE OF BILLS TO COMMITTEE

Pursuant to the Assembly Rules, the following bills were referred to committee:

Assembly**Bill No.****Committee**

9-----Judiciary

ADJOURNMENT

At 12:35 p.m., Speaker McCarthy declared the Assembly adjourned until 10 a.m., Tuesday, May 27, 1975.

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNAL

SIXTH LEGISLATIVE DAY

NINTH CALENDAR DAY

IN ASSEMBLY

Assembly Chamber, Sacramento
Tuesday, May 27, 1975

The Assembly met at 10.33 a.m.

Hon. Leo T. McCarthy, Speaker of the Assembly, presiding

Chief Clerk James D. Driscoll at the Desk

Assistant Clerk Ray Monday reading.

ROLL CALL

The roll was called, and the following answered to their names—74:

Alatorre	Chne	Keyser	Priolo
Antonovich	Collier	Knox	Ralph
Arnett	Cullen	Lancaster	Robinson
Badham	Davis	Lanterman	Rosenthal
Baue	Deddeh	Lewis	Siegler
Bannai	Dixon	Lockyer	Sieroty
Berman	Duffy	Maddy	Sutt
Beverly	Egelund	McAlister	Thomas, Vincent
Boatwright	Fenton	McLennan	Thomas, William
Briggs	Fosau	McVittie	Thurman
Brown	Garamendi	Miller	Tories
Burke	Goggin	Molloy	Vasconcellos
Calvo	Greene	Montoya	Vicencia
Campbell	Gualco	Mori	Warren
Carpenter	Hart	Murphy	Wilson
Chacon	Hayden	Nestande	Wornum
Chapue	Ingalls	Pappu	Z'berg
Chel	Kapiloff	Perino	Mr. Speaker
Chimbole	Keene		

Quorum present.

PRAYER

The following prayer was offered by the Chaplain, Father Leo McAllister:

Father, In this world we make much of the faith we profess, the political philosophy we adhere to, and many other peripheral labels. Make us ever aware that we will not be judged by the orthodoxy of our creed, but by the sincerity with which we have lived it; that we will be judged not by the flamboyance with which we have worn our political or other labels, but by the responsibility and creativity which should accompany them.

Help us, *Father*, to always find our way, above and beyond the things that divide us, to generosity, to love and self-sacrifice and to the service of others.—AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker McCarthy, Mr Mori then led the Assembly in the pledge of allegiance to the Flag.

MOTION TO DISPENSE WITH READING OF THE JOURNAL

Further reading of the Journal of the previous legislative day was dispensed with on motion of Mr. Cullen, seconded by Mr. Beverly

LEAVES OF ABSENCE FOR THE DAY

The following Members were granted leaves of absence for the day, because of illness:

Mr. Craven, on request of Speaker McCarthy.

Mr. Meade, on request of Speaker McCarthy

Mr. Tucker, on request of Speaker McCarthy.

The following Members were granted leaves of absence for the day, on personal business, and desired to waive their per diem:

Mr. MacDonald, on request of Speaker McCarthy.

Mr. Nimmo, on request of Speaker McCarthy.

COMMUNICATIONS

Assembly Chamber, May 27, 1975

Mr. Speaker: Pursuant to your instructions, the Chief Clerk has examined

Assembly Bill No 2

And reports the same correctly engrossed.

JAMES D. DRISCOLL, Chief Clerk

Above bill re-referred to committee.

ADJOURNMENT

At 10:34 a m., Speaker McCarthy declared the Assembly adjourned until 1 p m., Thursday, May 29, 1975.

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNAL

SEVENTH LEGISLATIVE DAY

ELEVENTH CALENDAR DAY

IN ASSEMBLY

Assembly Chamber, Sacramento
Thursday, May 29, 1975

The Assembly met at 3:20 p.m.

Hon. Leo T. McCarthy, Speaker of the Assembly, presiding.

Chief Clerk James D. Driscoll at the Desk.

Assistant Clerk Ray Monday reading.

ROLL CALL

The roll was called, and the following answered to their names—74:

Alatorre	Collier	Knox	Priolo
Antonovich	Cullen	Lancaster	Ralph
Arnett	Davis	Lanterman	Robinson
Badham	Deddeh	Lewis	Rosenthal
Baunni	Dixon	Lockyer	Siegler
Berman	Duffy	Maddy	Sieroty
Beverly	Egeland	McAlister	Suitt
Boatwright	Fenton	McLennan	Thomas, Vincent
Briggs	Foran	McVittie	Thomas, William
Brown	Garamendi	Meade	Thurman
Burke	Goggin	Miller	Torres
Calvo	Greene	Mohley	Vasconcellos
Campbell	Gunco	Montoya	Vicencia
Carpenter	Hart	Mori	Warren
Chucon	Hayden	Nestande	Wilson
Chappie	Ingalls	Nimmo	Wornum
Chel	Kapiloff	Papan	Z'berg
Chimbole	Koene	Perino	Mr. Speaker
Cline	Keyser		

Quorum present.

PRAYER

Upon invitation of Speaker McCarthy, the following prayer was offered by the Honorable Bill McVittie, Member, 65th District:

O Lord, We are aware that the only value of a life is its content, for others. We also know that in Your Kingdom, all works are equal, our greatest and our smallest. Save us then, from waiting idly for the moment of a great work to be done by and by. Help us to snatch from each passing moment the opportunity of quietly doing for others each day's needed chores.—AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker McCarthy, Mr. Vicencia then led the Assembly in the pledge of allegiance to the Flag.

MOTION TO DISPENSE WITH READING OF THE JOURNAL

Further reading of the Journal of the previous legislative day was dispensed with on motion of Mr. Meade, seconded by Mr. Collier.

LEAVES OF ABSENCE FOR THE DAY

The following Members were granted leaves of absence for the day, because of illness:

Mr. Craven, on request of Speaker McCarthy.

Mr. Tucker, on request of Speaker McCarthy.

The following Member was granted leave of absence for the day, on legislative business:

Mr. Bane, on request of Speaker McCarthy.

The following Members were granted leaves of absence for the day, on personal business, and desired to waive their per diem:

Mr. MacDonald, on request of Speaker McCarthy.

Mr. Murphy, on request of Speaker McCarthy.

NOTE: For letter explaining the absence of Mr. Bane on this day on legislative business pursuant to the Assembly Rules, see Assembly Daily Journal for the Regular Session for this day

**INTRODUCTION, FIRST READING, AND REFERENCE
OF ASSEMBLY BILLS**

The following bills were introduced, read the first time, and ordered held at the Desk:

Assembly Bill No. 11: By Assemblyman Montoya—An act to amend Sections 11770, 11773, 11774, 11777, 11778, and 11779 of, to add Part 7 (commencing with Section 12700) to Division 2 of, and to add Division 4 6 (commencing with Section 14000) to, the Insurance Code, and making an appropriation therefor.

Assembly Bill No. 12: By Assemblymen Bane, Carpenter, and Robinson—An act to add Article 7 (commencing with Section 11890) to the Insurance Code, relating to medical malpractice, and making an appropriation therefor.

Assembly Bill No. 13: By Assemblyman Campbell—An act to amend Sections 2123.2 and 2123.3 of the Business and Professions Code, relating to physicians and surgeons.

Assembly Bill No. 14: By Assemblyman Campbell—An act to add Article 12 (commencing with Section 825) to Chapter 1 of Division 2 of the Business and Professions Code, relating to malpractice actions.

Assembly Bill No. 15: By Assemblyman Campbell—An act to add Title 14 (commencing with Section 1822c) to Part 3 of the Code of Civil Procedure, relating to medical malpractice.

Assembly Bill No. 16: By Assemblyman Campbell—An act to add Article 15 (commencing with Section 12935) to Chapter 1 of Division 3 of the Insurance Code, relating to medical statistics.

Assembly Bill No. 17: By Assemblyman Campbell—An act to add Section 3361 to the Civil Code, relating to damages, and declaring the urgency thereof, to take effect immediately.

Assembly Bill No. 18: By Assemblyman Campbell—An act to add Chapter 5 (commencing with Section 364) to Title 2 of Part 2 of the Code of Civil Procedure, relating to the commencement of civil actions.

Assembly Bill No. 19: By Assemblyman Campbell—An act to amend Section 340.5 of, and to add Section 340 6 to, the Code of Civil Procedure, relating to medical malpractice.

Assembly Bill No. 20: By Assemblyman Campbell—An act to add Section 11588 to the Insurance Code, relating to medical malpractice insurance.

Assembly Bill No. 21: By Assemblyman Campbell—An act to add Section 3333 1 to the Civil Code, relating to damages.

Assembly Bill No. 22: By Assemblyman Robinson—An act to add Sections 805 and 2191 3 to the Business and Professions Code, to add Section 3333 1 to, and to add Part 6 (commencing with Section 6000) to Division 4 of, the Civil Code, to repeal and add Section 340.5 of the Code of Civil Procedure, and to add Section 1858 7 to the Insurance Code, relating to medical malpractice

ADJOURNMENT

At 3:21 p m, Speaker McCarthy declared the Assembly adjourned until 11 a m, Friday, May 30, 1975.

LEO T. MCCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

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CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNAL

EIGHTH LEGISLATIVE DAY

TWELFTH CALENDAR DAY

IN ASSEMBLY

Assembly Chamber, Sacramento
Friday, May 30, 1975

The Assembly met at 2:34 p. m. .

Hon. Leo T. McCarthy, Speaker of the Assembly, presiding

Chief Clerk James D. Driscoll at the Desk.

Assistant Clerk Ray Monday reading

ROLL CALL

The roll was called, and the following answered to their names—74.

Alatorre	Cline	Keyser	Priolo
Antonovich	Collier	Knox	Ralph
Arnett	Cullen	Lancaster	Robinson
Badham	Davis	Lauterman	Rosenthal
Bane	DeJdeh	Lewis	Siegler
Baunai	Dixon	Lockyer	Sieroty
Berman	Duffy	Maddy	Stutt
Beverly	Egeland	McAllister	Thomas, Vincent
Boatwright	Fenton	McLennan	Thomas, William
Briggs	Foran	McVittie	Thurman
Brown	Garamendi	Miller	Torres
Burke	Goggin	Moble	Vasconcellos
Calvo	Greene	Montoya	Vicencio
Campbell	Gualco	Mori	Warren
Carpenter	Hart	Nezonde	Wilson
Chacon	Hayden	Nimmo	Wornum
Chappie	Ingalls	Papan	Z'berg
Chel	Kaploff	Perino	Mr. Speaker
Chimbole	Keene		

Quorum present.

PRAYER

The following prayer was offered by the Chaplain, Father Leo McAllister:

God, Our Father. It is our hoped for goal, as well as our prayer, for your help to establish a civilization founded on world solidarity.

Help us to begin a dialogue based on man and not on commodities or technical skills. May we work with and in organizations whose goal is to establish an order of peace and justice which is universally recognized. Help us to look on all people, not just some, as brothers and sisters.

Each step in this direction is one more step closer to You, God — AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker McCarthy, Mr Collier then led the Assembly in the pledge of allegiance to the Flag.

READING OF THE JOURNAL DISPENSED WITH

By unanimous consent, reading of the Journal of the previous legislative day was dispensed with.

LEAVES OF ABSENCE FOR THE DAY

The following Members were granted leaves of absence for the day, because of illness:

Mr Craven, on request of Speaker pro Tempore Papan.

Mr. Tucker, on request of Speaker pro Tempore Papan.

The following Member was granted leave of absence for the day, on legislative business:

Mr. Meade, on request of Speaker pro Tempore Papan.

The following Members were granted leaves of absence for the day, on committee business, and desired to waive their per diem:

Mr. MacDonald, on request of Speaker pro Tempore Papan.

Mr Murphy, on request of Speaker pro Tempore Papan.

NOTE: For letter explaining the absence of Mr Meade on this day on legislative business pursuant to the Assembly Rules, see Assembly Daily Journal for the Regular Session for this day.

INTRODUCTION, FIRST READING, AND REFERENCE
OF ASSEMBLY BILLS

The following bill was introduced, read the first time, and ordered held at the Desk:

Assembly Bill No. 23: By Assemblymen Siegler, Goggin, Berman, Boatwright, and Montoya—An act to add Chapter 12 (commencing with Section 4950) to Division 2 of the Business and Professions Code, relating to medical malpractice reports, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

REFERENCE OF BILLS TO COMMITTEE

Pursuant to the Assembly Rules, the following bills were referred to committee:

<i>Assembly Bill No.</i>	<i>Committee</i>
11	Finance, Insurance, and Commerce
12	Finance, Insurance, and Commerce
13	Health
14	Judiciary
15	Judiciary
16	Finance, Insurance, and Commerce
17	Judiciary
18	Judiciary
19	Judiciary
20	Finance, Insurance, and Commerce
21	Judiciary
22	Judiciary
23	Judiciary

RECESS

At 2:35 p.m., Speaker McCarthy declared the Assembly recessed.

REASSEMBLED

At 3:10 p.m., the Assembly reconvened.

Hon. Leo T. McCarthy, Speaker of the Assembly, presiding.

AUTHOR'S AMENDMENTS

Committee on Judiciary

Assembly Chamber, May 30, 1975

Mr. Speaker: The Chairman of your Committee on Judiciary reports:

Assembly Bill No. 1

With author's amendments with the recommendation: Amend, and re-refer to the Committee on Judiciary.

MILLER, Chairman

Assembly Bill No. 1—An act to amend Sections 125.5, 2100, 2101, 2361, 2362, 2364, and 2372.5 of, to add Sections 2100.5, 2100.6, 2100.7, 2100.8, 2101.5, 2101.6, 2122, 2372, 2372.1, and 2372.5 to, to add Article 2.3 (commencing with Section 2123) and Article 2.4 (commencing with Section 2124.5) to Chapter 5 of Division 2 of, to repeal Section 2372 of, and to repeal Article 2.3 (commencing with Section 2123) of Chapter 5 of Division 2 of, the Business and Professions Code; to amend Section 340.5 of, and to add Section 340.6 to, the Code of Civil Procedure; to add Division 17 (commencing with Section 21005) to the Health and Safety Code, and to add Section 11587 to the Insurance Code, relating to health, and making an appropriation therefor.

Bill read second time.

Consideration of Author's Amendments

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted:

Set No. 1

Amendment 1

In line 2 of the title of the printed bill, strike out "and 2372 5", and insert "2372.5, 2436, and 2454".

Amendment 2

In line 3 of the title, strike out "2372.1, and 2372 5", and insert "and 2372.1".

Amendment 3

On page 19, line 8, strike out "from," and insert ", from".

Amendment 4

On page 20, line 15, after "by", insert "the".

Amendment 5

On page 24, line 32, strike out "a licentiate", and insert "licentiates".

Amendment 6

On page 25, line 6, strike out "a public member", and insert "public members".

Amendment 7

On page 28, line 17, strike out "filed", and insert "filled"

Amendment 8

On page 36, line 8, strike out "proceeding", and insert "preceeding".

Amendment 9

On page 37, line 4, after "SEC 28.", insert "If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 29."

Set No. 2

Amendment 1

In line 9 of the title of the printed bill, strike out ", and to add Section 340.6 to,".

Amendment 2

On page 34, line 40, after "a", insert "physician and surgeon"

Amendment 3

On page 35, line 9, strike out "four years"; strike out lines 10 to 17, inclusive, and insert "on or after the effective date of this section, the time for the commencement of action shall be three years, which shall be calculated from the date of the alleged wrongful act, and not from any other date, except only upon proof of fraud, intentional concealment, or the presence of a foreign body in the person of the injured person."

Amendment 4

On page 35, strike out lines 18 to 30, inclusive.

Set No. 3**Amendment 1**

On page 12, line 28, of the printed bill, after the period, insert "In determining the amount of such insurance benefits for purposes of this section, insurance premiums paid by or on behalf of the insured to secure the insurance benefits shall be deducted from the total of such benefits which the claimant has received or to which he is entitled."

Set No. 4**Amendment 1**

On page 17, line 29, of the printed bill, strike out "hearing officer", and insert "panel comprised of three hearing officers".

Amendment 2

On page 17, line 31, after the period, insert "Decisions of such hearing panels shall be by concurrence of at least two of the members thereof"

Amendment 3

On page 17, lines 34 and 35, strike out "the hearing officer", and insert "any member of the hearing panel".

Amendment 4

On page 18, line 13, strike out "officer", and insert "panel".

Amendment 5

On page 18, line 14, strike out "officer", and insert "panel".

Amendment 6

On page 18, line 17, strike out "a", and insert "an appeals".

Amendment 7

On page 18, line 21, after "the", insert "appeals".

Amendment 8

On page 18, line 22, strike out "appeal", and insert "appeals".

Amendment 9

On page 19, line 1, strike out "officer", and insert "panel".

Amendment 10

On page 20, line 7, strike out "hearing", and insert "appeals".

Set No. 5**Amendment 1**

In line 4 of the heading of the printed bill, strike out "and Wornum", and insert "Wornum, Boatwright, Duffy, Keysor, Miller, Montoya, Vincent Thomas, and Thurman

(Coauthors: Senators Greene, Nejedly, and Rams)".

Amendment 2

In line 3 of the title, after the first "to," insert "to add Article 11 (commencing with Section 800) to Chapter 1 of Division 2 of,".

Amendment 3

In line 6 of the title, after "2372 of," insert "to repeal Article 11 (commencing with Section 800) of Chapter 1 of Division 2 of,".

Amendment 4

On page 10, line 10, strike out "A", and insert "Upon the requisite finding of fault, a".

Amendment 5

On page 22, between lines 39 and 40, insert

"SEC 22 Article 11 (commencing with Section 800) of Chapter 1 of Division 2 of the Business and Professions Code is repealed

SEC. 23. Article 11 (commencing with Section 800) is added to Chapter 1 of Division 2 of the Business and Professions Code, to read-

Article 11. Legal Actions

800 (a) The Board of Medical Examiners, the Board of Dental Examiners, the Board of Osteopathic Examiners, the California Board of Registered Nursing, the Board of Vocational Nurse and Psychiatric Technician Examiners, the State Board of Optometry, and the State Board of Pharmacy shall each separately create and maintain a central file of the names of all persons who hold a license, certificate or similar authority from such board. Each such central file shall be so created and maintained as to provide an individual historical record for each such person with respect to (1) any conviction of crime in this or any other state; (2) any judgment or settlement requiring him or his insurer to pay any amount of damages in excess of three thousand dollars (\$3,000) with respect to any claim that injury or death was proximately caused by such person's negligence, error or omission in practice or rendering of unauthorized professional services; (3) any public complaints for which provision is hereinafter made. Each such central file may include such other items concerning a licensee or certificatee as the board, through its administrative staff, shall determine to be appropriate.

(b) Each such board shall prescribe and promulgate forms on which members of the public and other licensees or certificatees may file written complaints to the board alleging any act of misconduct in or connected with the performance of professional services by such person.

(c) The contents of any such file shall be confidential except that they may be reviewed (1) by the person involved, (2) or his counsel or other representative, (3) by any district attorney or representative or investigator therefor, (4) by any representative of the Attorney General's office or investigator therefor, or (5) by any investigator of the Department of Consumer Affairs. Such person may, but is not required to, submit any additional exculpatory or explanatory statements or other information which statements or other information must be included in the file.

801. (a) Every insurer providing professional liability insurance to a person who holds a license, certificate or similar authority from or under any agency mentioned in Section 800(a) (except a person licensed pursuant to Chapter 3 (commencing with Section 1200) of

Division 2) shall send a complete report to that agency as to any settlement over three thousand dollars (\$3,000) of a claim or action for damages for death or personal injury caused by such person's negligence, error or omission in practice or his rendering of unauthorized professional services. Such report shall be sent within 30 days after such written settlement agreement has been reduced to writing and signed by all parties thereto.

(b) Notwithstanding any other provision of law, no insurer shall enter into such a settlement without the written consent of the insured, except that this prohibition shall not void any settlement entered into without such written consent. The requirement of written consent can only be waived by both the insured and the insurer. The provisions of this section shall only apply to a settlement on a policy of insurance executed or renewed on or after January 1, 1971.

802. Every settlement over three thousand dollars (\$3,000) of a claim or action for damages for death or personal injury caused by negligence, error or omission in practice, or the unauthorized rendering of professional services, by a person who holds a license, certificate or other similar authority from an agency mentioned in Section 800(a) (except a person licensed pursuant to Chapter 3 (commencing with Section 1200) of Division 2) who does not possess professional liability insurance as to such claim shall, within 30 days after any such written settlement agreement has been reduced to writing and signed by all the parties thereto, be reported to the agency which issued the license, certificate or similar authority. A complete report shall be made by appropriate means by such person or his counsel, with a copy of such communication to be sent to the claimant through his counsel if he is so represented, or directly if he is not. If, within 45 days of the conclusion of such written settlement agreement, counsel for the claimant (or if he is not represented by counsel, the claimant himself) has not received a copy of the report, he shall himself make such a complete report. Failure of the physician or claimant (or, if represented by counsel, their counsel) to comply with the provisions of this section is a public offense punishable by a fine of not less than fifty dollars (\$50) or more than five hundred dollars (\$500). Knowing and intentional failure to comply with the provisions of this section, or conspiracy or collusion not to comply with the provisions of this section, or to hinder or impede any other person in such compliance is a public offense punishable by a fine of not less than five thousand dollars (\$5,000) nor more than fifty thousand dollars (\$50,000).

803. Within 10 days after the expiration of the time during which an appeal could have been taken from a final judgment that a person who holds a license, certificate or other similar authority from an agency mentioned in Section 800(a) (except a person licensed pursuant to Chapter 3 (commencing with Section 1200) of Division 2) has committed a crime or is liable for any death or personal injury caused by his negligence, error or omission in practice, or his rendering unauthorized professional services, the clerk of the court which rendered such final judgment shall report the same to that agency which issued the license, certificate or other similar authority, provided that, where the

judge who tried the matter finds that it does not relate to the defendant's professional competence or integrity, he may, by order, dispense with the requirement that the report be sent.

804. (a) Any agency to whom reports are to be sent under Section 801 or Section 803 may develop a prescribed form for the making of such reports, usage of which it may, but need not, by regulation require in all cases

(b) A report required to be made by any of the foregoing sections shall be deemed complete only if it includes the following information: (1) the name and last known business and residential addresses of every plaintiff or claimant involved in the matter, whether or not each such person recovered anything, (2) the name and last known business and residential addresses of every physician or provider of health care services who was claimed or alleged to have acted improperly, whether or not such person was a named defendant and whether or not any recovery or judgment was had against such person; (3) the name, address and principal place of business of every insurer providing professional liability insurance as to any person named in (2) and the insured's policy number; (4) the name of the court in which the action or any part of the action was filed along with the date of filing and docket number of each such action, (5) a brief description or summary of the facts upon which each claim, charge or judgment rested including the date of occurrence; (6) the names and last known business and residential addresses of every person who acted as counsel for any party in the litigation or negotiations, along with an identification of the party whom said person represented; (7) the date and amount of final judgment or settlement, and (8) such other information as the agency to whom the reports are to be sent may require

(c) Every person named in such report shall maintain for the period of three years from the filing of such report any records he has as to the matter in question and shall make those available upon request to the agency with which the report was filed

805 The chief administrator or executive officer of any county hospital or county medical facility or any clinic, health facility, general acute care hospital, acute psychiatric hospital, skilled nursing facility, intermediate care facility, or special hospital licensed pursuant to Division 2 of the Health and Safety Code (commencing with Section 1200) shall report to the agency which issued the license, certificate, or similar authority when any person who holds a license, certificate or similar authority under any agency mentioned in Section 800 is removed from the medical staff of such institution, or if his initial staff privileges are restricted, for any cause or reason. Such report shall be made within 10 days following such removal or restriction, shall be certified as true and correct by said chief administrator or other executive officer, and shall contain a statement detailing the nature of the action, its date and all of the reasons for, and circumstances surrounding, it. If the removal or restriction is by resignation, the report shall state whether the resignation was requested or bargained for.

806. Each agency in the department receiving reports pursuant to the preceding sections shall prepare a statistical report based upon such records for presentation to the Legislature not later than 30 days after the commencement of each regular session of the Legislature, including any recommendations for corrective legislation if the department considers such legislation to be necessary.

807. Each agency in the department shall notify every person licensed, certified or holding similar authority issued by it, and the department shall notify every insurance company doing business in this state and every institution mentioned in Section 805 of the provisions of this article.

808. After the conclusion of any criminal case in which a person who holds a license, certificate or other similar authority from an agency mentioned in Section 800(a) (except a person licensed pursuant to Chapter 3 (commencing with Section 1200) of Division 2) is a defendant, and after the rendering of a verdict against any such person in any civil action for damages for death or personal injury caused by his alleged error, omission or negligence in practice or rendering of unauthorized professional services, the judge who heard the matter shall convene a hearing without any jury. The subject matter of the hearing will be a determination as to whether the preponderance of the evidence at the preceding trial demonstrated that the defendant had been guilty of unprofessional conduct as defined by Business and Professions Code Section 2361. If the judge determines that an act of unprofessional conduct occurred he shall fully describe the circumstances in findings of fact which shall be transmitted to the agency within the department which issued the license, certificate or similar authority and such findings shall be conclusive as to the facts stated therein, except that a finding in this respect shall be appealable as would any other final judgment of the court. If the court determines that the person is addicted to, or is a habitual user of, any narcotics, restricted dangerous drugs, or controlled substances as those terms are used in Section 11032 of the Health and Safety Code, or that, while under the influence of alcohol or any such narcotics, restricted dangerous drugs or controlled substances he rendered professional services (other than services rendered necessary by the occurrence of an unexpected emergency), or that the preponderance of the evidence indicates that he has been, and probably will continue to be, incompetent or grossly negligent, the court shall suspend his license, certificate or other similar authority and shall certify the fact of such suspension to the county clerk of the county in which the license or certificate of the person is recorded; provided that at any time after such suspension the person may petition the agency within the department which issued the license, certificate or similar authority to reinstate the same according to the procedures regularly provided for such reinstatement. Before making any of the determinations set out in this section the court shall hear argument from the person affected and from any party to the preceding trial and may hear further testimonial evidence if such be in the interests of justice."

Amendment 6

On page 25, line 20, strike out "The standards"; strike out lines 21 and 22, and insert "Using such standards, the division shall provide for periodic recertification of such certificate holders at intervals of not less than four nor more than six years "

Bill ordered reprinted, and to be re-referred to the Committee on Judiciary

ADJOURNMENT

At 3.11 p m. Speaker McCarthy declared the Assembly adjourned until 9 a m, Monday, June 2, 1975

LEO T McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNALNINTH LEGISLATIVE DAY
FIFTEENTH CALENDAR DAY**IN ASSEMBLY**Assembly Chamber, Sacramento
Monday, June 2, 1975

The Assembly met at 12 23 p m

Hon Leo T McCarthy, Speaker of the Assembly, presiding

Chief Clerk James D Driscoll at the Desk

Assistant Clerk Ray Monday reading

ROLL CALL

The roll was called, and the following answered to their names—77.

Alatorre	Coller	Knox	Perino
Antonovich	Craven	Lancaster	Piolo
Arnett	Cullen	Lanternman	Ralph
Badham	Davis	Lewis	Robinson
Bane	Deddeb	Lockyer	Rosenthal
Bannai	Dixon	MacDonald	Siegler
Berman	Duffy	Mahly	Sieroty
Beverly	Egeland	McAlister	Suitt
Boatwright	Fenton	McLennan	Thomas, Vincent
Briggs	Foran	McVittie	Thomas, William
Brown	Gaiamendi	Meude	Thurman
Burke	Greene	Miller	Torres
Calvo	Gualco	Mabley	Vasconcellos
Campbell	Hait	Montova	Vicenein
Carpenter	Hayden	Mori	Warren
Chacon	Ingalls	Murphy	Wilson
Chappie	Kaploff	Nestande	Wornum
Chei	Keene	Nimmo	Zberg
Chimbole	Keysor	Papan	Mi Speaker
Clue			

Quorum present.

PRAYER

The following prayer was offered by the Chaplain, Father Leo McAlister:

Heavenly Father, As we begin each day to examine issues and discuss proposals, never let us be so distracted by the argument and rhetoric as to forget that we are dealing with the lives and living patterns of human beings, those who have, and have not, but all possessing an indescribable dignity and destiny—AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker McCarthy, Mr. Deddeh then led the Assembly in the pledge of allegiance to the Flag.

MOTION TO DISPENSE WITH READING OF THE JOURNAL

Further reading of the Journal of the previous legislative day was dispensed with on motion of Mr. Deddeh, seconded by Mr. Murphy.

LEAVES OF ABSENCE FOR THE DAY

The following Members were granted leaves of absence for the day, because of illness:

Mr. Goggin, on request of Speaker McCarthy.

Mr. Tucker, on request of Speaker McCarthy.

COMMUNICATIONS

Assembly Chamber, June 2 1975

Mr. Speaker: Pursuant to your instructions, the Chief Clerk has examined.

Assembly Bill No. 1

And reports the same correctly engrossed.

JAMES D. DRISCOLL, Chief Clerk

Above bill re-referred to committee.

INTRODUCTION, FIRST READING, AND REFERENCE OF ASSEMBLY BILLS

The following bills were introduced, read the first time, and ordered held at Desk:

Assembly Bill No. 24: By Assemblyman Dixon—An act to add Chapter 5 (commencing with Section 11900) to Part 3 of Division 2 of the Insurance Code, relating to medical malpractice, and making an appropriation therefor.

Assembly Bill No. 25: By Assemblyman Hart and the Select Committee on Medical Malpractice—An act to add Title 9A (commencing with Section 1296) to Part 3 of the Code of Civil Procedure, relating to medical liability claims, and making an appropriation therefor.

Assembly Bill No. 26: By Assemblyman Hart and the Select Committee on Medical Malpractice—An act to add Section 667.7 to the Code of Civil Procedure, relating to judgments.

Assembly Bill No. 27: By Assemblyman McAlister and the Select Committee on Medical Malpractice—An act to amend Section 3333 of, and to add Article 5 (commencing with Section 3361) to Chapter 2 of Title 2 of Part 1 of Division 4 of, the Civil Code, relating to damages for personal injuries.

Assembly Bill No. 28: By Assemblymen Maddy, Egeland, Antonovich, Berman, and Hart—An act to add and repeal Section 11587 to the Insurance Code, relating to malpractice insurance, and declaring the urgency thereof, to take effect immediately.

Assembly Bill No. 29: By Assemblyman Robinson—An act to add Section 6076.5 to the Business and Professions Code, relating to the practice of law.

RECESS

At 12 24 p.m., Speaker McCarthy declared the Assembly recessed.

REASSEMBLED

At 3 01 p.m., the Assembly reconvened

Hon Leo T McCarthy, Speaker of the Assembly, presiding

REFERENCE OF BILLS TO COMMITTEE

Pursuant to the Assembly Rules, the following bills were referred to committee:

*Assembly**Bill No**Committee*

24	-----	Judiciary
25	-----	Judiciary
26	-----	Judiciary
27	-----	Judiciary
28	-----	Finance, Insurance, and Commerce
29	-----	Judiciary

AUTHOR'S AMENDMENTS**Committee on Judiciary**

Assembly Chamber June 2, 1975

Mr Speaker The Chairman of your Committee on Judiciary reports

Assembly Bill No 1

With author's amendments with the recommendation Amend. and re-fer to the Committee on Judiciary

MILLER, Chairman

Assembly Bill No. 1—An act to amend Sections 125 5, 2100, 2101, 2361, 2362, 2364, 2372 5, 2436, and 2454 of, to add Sections 2100 5, 2100 6, 2100 7, 2100 8, 2101 5, 2101 6, 2122, 2372, and 2372 1 to, to add Article 11 (commencing with Section 800) to Chapter 1 of Division 2 of, to add Article 2 3 (commencing with Section 2123) and Article 2 4 (commencing with Section 2124 5) to Chapter 5 of Division 2 of, to repeal Section 2372 of, to repeal Article 11 (commencing with Section 800) of Chapter 1 of Division 2 of, and to repeal Article 2 3 (commencing with Section 2123) of Chapter 5 of Division 2 of, the Business and Professions Code, to amend Section 340 5 of, the Code of Civil Procedure, to add Division 17 (commencing with Section 21005) to the Health and Safety Code, and to add Section 11587 to the Insurance Code, relating to health, and making an appropriation therefor

Bill read second time

Consideration of Author's Amendments

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted:

Amendment 1

In line 6 of the heading of the printed bill, as amended in Assembly May 30, 1975, strike out "and Thurman", and insert "Thurman, McLennan, and Perno"

Amendment 2

On page 13, line 16, after "paid", insert "during the 18 months immediately preceding the injury".

Amendment 3

On page 22, line 28, after "21220", insert "(a)",

Amendment 4

On page 22, between lines 34 and 35, insert

"(b) Within 10 days after a decision that a person who holds a license, certificate or other similar authority from an agency mentioned in Section 800(a) (except a person licensed pursuant to Chapter 3 (commencing with Section 1200) of Division 2) is liable for any death or personal injury caused by his negligence, error or omission in practice, or his rendering unauthorized professional services, the commission shall report the same to that agency which issued the license, certificate or other similar authority, provided that, where the commission finds that it does not relate to the defendant's professional competence or integrity, it may, by order, dispense with the requirement that the report be sent"

Amendment 5

On page 26, strike out lines 17 and 18, and in line 19, strike out "final judgment", and insert

"803 Within 10 days after a judgment by a court of this state".

Amendment 6

On page 26, line 27, strike out "final"

Amendment 7

On page 28, strike out lines 30 to 40, inclusive, and on page 29, strike out lines 1 to 32, inclusive, and insert "defendant charged with a crime that relates to the defendant's professional competence or integrity, the judge who heard the matter shall transmit a transcript of the proceedings to such agency. Where the agency finds, after reviewing the transcript, that there is a substantial question as to the professional competence or integrity of the defendant, it shall commence appropriate disciplinary action within 30 days"

Bill ordered reprinted, and to be re-referred to the Committee on Judiciary.

ADJOURNMENT

At 3.15 p m, Speaker McCarthy declared the Assembly adjourned until 9 a m, Tuesday, June 3, 1975.

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNALTENTH LEGISLATIVE DAY
SIXTEENTH CALENDAR DAY**IN ASSEMBLY**Assembly Chamber, Sacramento
Tuesday, June 3, 1975

The Assembly met at 10 28 a m.

Hon Louis J Papan, Speaker pro Tempore of the Assembly, presiding

Chief Clerk James D Driscoll at the Desk.

Assistant Clerk Ray Monday reading

ROLL CALL

The roll was called, and the following answered to their names—76

Antonovich	Collier	Knox	Permo
Arnett	Craven	Lamastei	Priolo
Badham	Cullen	Lanterman	Ralph
Bane	Davis	Lewis	Robinson
Banna	Deddeh	Lockyer	Rosenthal
Berman	Dixon	MacDonld	Siegler
Beverly	Duffy	Mudly	Sieroty
Bontwright	Fenton	McAlister	Smitt
Briggs	Foran	McLennan	Thomas, Vincent
Brown	Garamendi	McVittie	Thomas, William
Burke	Goggin	Macle	Thurman
Calvo	Greene	Miller	Torres
Campbell	Gualco	Mobley	Vasconcellos
Carpenter	Hart	Montoya	Vicenti
Chacon	Hayden	Mori	Warren
Chappie	Ingalls	Murphy	Wilson
Chel	Kaploff	Ne-lande	Wornum
Chimhole	Keene	Nunno	Zberg
Clue	Keyser	Papan	Mr Speaker

Quorum present

REGULAR BUSINESS DISPENSED WITH

By unanimous consent, the regular order of business of the Assembly was dispensed with for this legislative day.

LEAVES OF ABSENCE FOR THE DAY

The following Member was granted leave of absence for the day, because of illness:

Mr. Tucker, on request of Speaker pro Tempore Papan

The following Member was granted leave of absence for the day, on legislative business, and desired to waive her per diem:

Mrs. Egeland, on request of Speaker pro Tempore Papan

The following Member was granted leave of absence for the day, on personal business, and desired to waive his per diem

Mr. Alatorre, on request of Speaker pro Tempore Papan

COMMUNICATIONS

Assembly Chamber, June 3, 1975

Mr. Speaker Pursuant to your instructions, the Chief Clerk has examined Assembly Bill No 1

And reports the same correctly engrossed

JAMES D. DRISCOLL, Chief Clerk

Above bill re-referred to committee.

RECESS

At 10:29 a.m., Speaker pro Tempore Papan declared the Assembly recessed

REASSEMBLED

At 2:47 p.m., the Assembly reconvened

Hon. Louis J. Papan, Speaker pro Tempore of the Assembly, presiding.

ADJOURNMENT

At 2:48 p.m., Speaker pro Tempore Papan declared the Assembly adjourned until 9 a.m., Wednesday, June 4, 1975

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNALELEVENTH LEGISLATIVE DAY
SEVENTEENTH CALENDAR DAY**IN ASSEMBLY**Assembly Chamber, Sacramento
Wednesday, June 4, 1975

The Assembly met at 10.15 a m

Hon Louis J Papan, Speaker pro Tempore of the Assembly,
presiding

Chief Clerk James D Driscoll at the Desk.

Assistant Clerk Ray Monday reading

ROLL CALL

The roll was called, and the following answered to their names—75:

Alatorre	Cline	Keyser	Papan
Antonovich	Collier	Knob	Perino
Arnett	Craven	Lancaster	Priolo
Badham	Cullen	Lanterman	Ralph
Bane	Davis	Lewis	Rosenthal
Banna	Deddeh	Lockyer	Siegler
Berman	Dixon	MacDonald	Sieroty
Beverly	Duffy	Maddy	Sutt
Boatwright	Fenton	McAlister	Thomas, Vincent
Briggs	Folan	McLennan	Thomas, William
Brown	Garamendi	McVittie	Thurman
Burke	Goggin	Moore	Toties
Calvo	Greene	Miller	Vicencia
Campbell	Gunco	Mobley	Warren
Carpenter	Hart	Montoya	Wilson
Chacon	Hayden	Mori	Wornum
Chappie	Ingalls	Murphy	Z'berg
Chel	Kapiloff	Nestande	Mr. Speaker
Chimbole	Keene	Nimmo	

Quorum present.

REGULAR BUSINESS DISPENSED WITHBy unanimous consent, the regular order of business of the Assembly
was dispensed with for this legislative day.

LEAVES OF ABSENCE FOR THE DAY

The following Member was granted leave of absence for the day, because of illness:

Mr. Tucker, on request of Speaker pro Tempore Papan.

The following Member was granted leave of absence for the day, on legislative business, and desired to waive her per diem

Mrs. Egeland, on request of Speaker pro Tempore Papan.

The following Members were granted leaves of absence for the day, on personal business, and desired to waive their per diem

Mr. Robinson, on request of Speaker pro Tempore Papan

Mr. Vasconcellos, on request of Speaker pro Tempore Papan

AUTHOR'S AMENDMENTS

Committee on Judiciary

Assembly Chamber, June 4, 1975

Mr. Speaker: The Chairman of your Committee on Judiciary reports

Assembly Bill No. 22

Assembly Bill No. 23

With author's amendments with the recommendation Amend, and re-fer to the Committee on Judiciary

MILLER, Chairman

Assembly Bill No. 22—An act to add Sections 805 and 2191 3 to the Business and Professions Code, to add Section 3333 1 to, and to add Part 6 (commencing with Section 6000) to Division 4 of, the Civil Code, to repeal and add Section 340 5 of the Code of Civil Procedure, and to add Section 1858 7 to the Insurance Code, relating to medical malpractice.

Bill read second time.

Consideration of Author's Amendments

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted:

Amendment 1

In line 1 of the title of the printed bill, after the first "to", insert "amend Section 2361 of, and to".

Amendment 2

In line 1 of the title, after the second "to", insert a comma

Amendment 3

On page 4, between lines 24 and 25, insert

"SEC 2.5. Section 2361 of the Business and Professions Code is amended to read

2361 The board shall take action against any holder of a certificate, who is guilty of unprofessional conduct which has been brought to its attention, or whose certificate has been procured by fraud or misrepresentation or issued by mistake.

Unprofessional conduct includes, but is not limited to, the following
 (a) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision or term of this chapter

(b) ~~Gross negligence~~ *Negligence*.

(c) Incompetence

(d) Gross immorality.

(e) The commission of any act involving moral turpitude dishonesty, or corruption, whether the act is committed in the course of the individual's activities as a certificate holder, or otherwise, or whether the act is a felony or a misdemeanor.

(f) Any action or conduct which would have warranted the denial of the certificate."

Amendment 4

On page 10, line 17, after "licensee," insert "which visit relates to the act, omission, or failure complained of,".

Amendment 5

On page 10, strike out lines 18 to 22, inclusive, and insert

"This period of limitations shall be tolled for any period during which such licensee has failed through fraud or concealment to disclose any such act, omission, or failure complained of and upon which such action is based "

Bill ordered reprinted, and to be re-referred to the Committee on Judiciary

Assembly Bill No. 23—An act to add Chapter 12 (commencing with Section 4950) to Division 2 of the Business and Professions Code, relating to medical malpractice reports, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately

Bill read second time

Consideration of Author's Amendments

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted.

Amendment 1

In line 3 of the title of the printed bill, strike out "making an appropriation"; strike out lines 4 and 5 of the title, and insert a period

Amendment 2

On page 7, strike out lines 34 to 40, inclusive, strike out page 8, and insert

"SEC 2 No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act "

Bill ordered reprinted, and to be re-referred to the Committee on Judiciary

**INTRODUCTION, FIRST READING, AND REFERENCE
OF ASSEMBLY BILLS**

The following bills were introduced, read the first time, and ordered held at the Desk.

Assembly Bill No. 30: By Assemblyman Z'berg—An act to add Chapter 5 (commencing with Section 11890) to Part 3 of Division 2 of the Insurance Code, relating to medical malpractice insurance.

Assembly Bill No. 31: By Assemblymen Kapiloff and Alatorre—An act to amend Sections 1628 5, 1747, 1765, 1807, 2507, 2936 2996 5, 3024, and 3166 of, to add Chapter 17 (commencing with Section 910) to Division 2, Section 2360 5 and Division 2 5 (commencing with Section 4910) to, and to repeal Article 4 (commencing with Section 1670) and Article 4 5 (commencing with Section 1690) of Chapter 4 of Division 2, Article 4 (commencing with Section 2960) of Chapter 6 6 of Division 2, Section 3025 6, and Article 5 (commencing with Section 3090) of Chapter 7 of Division 2 of, the Business and Professions Code, to add Division 22 (commencing with Section 30000) to the Health and Safety Code, to add Chapter 2 05 (commencing with Section 17061 10) to Part 10 of Division 2 of the Revenue and Taxation Code, to amend Section 2 of Chapter 48 of the Statutes of 1962 of the First Extraordinary Session of the Legislature and to repeal Section 5 of Chapter 1318 of the Statutes of 1962 of the First Extraordinary Session of the Legislature, relating to health care, making an appropriation therefor, to take effect immediately, tax levy

Assembly Bill No. 32: By Assemblyman McVittie and the Select Committee on Medical Malpractice (Assemblyman Bernau, Chairman), and Assemblymen Chel, Keene, Boatwright, and Wornum—An act to add Chapter 10 5 (commencing with Section 4600) to Division 2 of the Business and Professions Code, relating to malpractice claims

REFERENCE OF BILLS TO COMMITTEE

Pursuant to the Assembly Rules, the following bill was referred to committee.

Assembly

Bill No.

Committee

30.....Finance, Insurance, and Commerce

RECESS

At 10:16 a.m., Speaker pro Tempore Papan declared the Assembly recessed.

REASSEMBLED

At 2:47 p.m., the Assembly reconvened

Hon. Louis J. Papan, Speaker pro Tempore of the Assembly, presiding.

ADJOURNMENT

At 2.49 p m , Speaker pro Tempore Papan declared the Assembly adjourned until 1 p m , Thursday, June 5, 1975.

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

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CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNAL

TWELFTH LEGISLATIVE DAY
EIGHTEENTH CALENDAR DAY

IN ASSEMBLY

Assembly Chamber, Sacramento
Thursday, June 5, 1975

The Assembly met at 5:18 p m.

Hon Leo T McCarthy, Speaker of the Assembly, presiding

Chief Clerk James D Driscoll at the Desk.

Assistant Clerk Ray Monday reading.

ROLL CALL

The roll was called, and the following answered to their names—77.

Alatorre	Craven	Knox	Perino
Antonovich	Cullen	Lancaster	Priolo
Arnett	Davis	Lanterman	Ralph
Badbam	Deddeh	Lewis	Robinson
Bane	Dixon	Lockyer	Rosenthal
Bannai	Duffy	MacDonald	Siegler
Berman	Egeland	Maddy	Sieroty
Beverly	Fenton	McAlister	Suitt
Boatwright	Foran	McLennan	Thomas, Vincent
Brown	Garamendi	McVittie	Thomas, William
Burke	Goggin	Monde	Thurman
Calvo	Gueene	Miller	Torres
Campbell	Gualco	Mohley	Vasconcellos
Carpenter	Hart	Montoya	Vicencia
Chacon	Hayden	Mori	Warren
Chappie	Ingalls	Murphy	Wilson
Chel	Kapiloff	Nestande	Wornum
Chimhole	Keene	Nunno	Z'berg
Chne	Keysor	Papan	Mr. Speaker
Collier			

Quorum present.

PRAYER

Upon invitation of Speaker McCarthy, the following prayer was offered by the Honorable Larry Chimbole, Member of the Assembly, 34th District:

Dear Father, We give You thanks for this new day . . . for the new horizons; for the opportunity to deal with the future of our great state Help us to forget the failures and the frustrations of yesterday . . . help us to forgive the sins and weaknesses of our fellow men and women and make it easier for us to recognize that we, too, are guilty of those same weaknesses and sins

Give us the strength to serve our people in a manner that is just in their eyes as well as in Yours . . . give us the vision and the wisdom to make the right decisions and help us to do it with the grace that only a generous heart can inspire.—AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker McCarthy, Mr Priolo then led the Assembly in the pledge of allegiance to the Flag

MOTION TO DISPENSE WITH READING OF THE JOURNAL

Further reading of the Journal of the previous legislative day was dispensed with on motion of Mr. Hart, seconded by Mr. Priolo

LEAVES OF ABSENCE FOR THE DAY

The following Member was granted leave of absence for the day, because of illness:

Mr. Tucker, on request of Speaker McCarthy.

The following Member was granted leave of absence for the day, on personal business, and desired to waive his per diem:

Mr. Briggs, on request of Speaker McCarthy.

ANNOUNCEMENTS

Speaker pro Tempore Papan was granted unanimous consent that the following committees be permitted to hold special hearings:

Judiciary on Tuesday, June 10, in Room 2117 at 1:30 p.m. to hear Assembly Bill's Nos. 7, 9, 14, 15, 17, 18, 19, 21, 22, 23, 24, 25, 26, 27, and 29.

Finance, Insurance, and Commerce on Wednesday, June 11, at 1:30 p.m. in Room 4202 to hear Assembly Bill's Nos 11 and 28 and any holdovers from their meeting on Monday, June 9

Joint meeting of Judiciary and Health Committees Thursday, June 5, at 7:30 p.m. in Room 4202 to hear Assembly Bill No. 1.

COMMUNICATIONS

Assembly Chamber, June 5, 1975

Mr. Speaker Pursuant to your instructions, the Chief Clerk has examined

Assembly Bill No 22

Assembly Bill No 23

And reports the same correctly engrossed

JAMES D DRISCOLL, Chief Clerk

Above bills re-referred to committee.

REFERENCE OF BILLS TO COMMITTEE

Pursuant to the Assembly Rules, the following bills were referred to committee.

<i>Assembly Bill No</i>	<i>Committee</i>
31-----	Health
32-----	Judiciary

AUTHOR'S AMENDMENTS

Committee on Judiciary

Assembly Chamber, June 5, 1975

Mr Speaker The Chairman of your Committee on Judiciary reports

Assembly Bill No 18

With author's amendments with the recommendation: Amend, and re-refer to the Committee on Judiciary.

MILLER, Chairman

Assembly Bill No. 18—An act to add Chapter 5 (commencing with Section 364) to Title 2 of Part 2 of the Code of Civil Procedure, relating to the commencement of civil actions.

Bill read second time

Consideration of Author's Amendments

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted:

Amendment 1

On page 2, lines 9 and 10 of the printed bill, strike out "holding a physician's and surgeon's certificate", and insert "licensed under Division 2 (commencing with Section 500) of the Business and Professions Code or against a clinic, facility, or agency licensed under Division 2 (commencing with Section 1200) of the Health and Safety Code".

Amendment 2

On page 2, line 11, after "person", insert ", clinic, facility, or agency".

Amendment 3

On page 2, line 14, after "person", insert ", clinic, facility, or agency".

Amendment 4

On page 2, line 22, strike out "60", and insert "90".

Bill ordered reprinted, and to be re-referred to the Committee on Judiciary.

INTRODUCTION, FIRST READING, AND REFERENCE
OF ASSEMBLY BILLS

The following bill was introduced, read the first time, and ordered held at the Desk:

Assembly Bill No. 33: By Assemblyman Boatwright and the Select Committee on Medical Malpractice—An act to add Article 8.5 (commencing with Section 6146) to Chapter 4 of Division 3 of the Business and Professions Code, relating to contingency fees.

REFERENCE OF BILLS TO COMMITTEE

Pursuant to the Assembly Rules, the following bill was referred to committee:

Assembly

Bill No.

Committee

33-----Judiciary

JOINT RULE 62(a) WAIVED

Mr. Montoya was granted unanimous consent that Joint Rule 62(a) be waived for the purpose of setting Assembly Bill No 11 for hearing in the Committee on Finance, Insurance, and Commerce on Monday, June 9, 1975.

ADJOURNMENT

At 5:20 p.m., Speaker McCarthy declared the Assembly adjourned until 11 a.m., Friday, June 6, 1975

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNALTHIRTEENTH LEGISLATIVE DAY
NINETEENTH CALENDAR DAY**IN ASSEMBLY**Assembly Chamber, Sacramento
Friday, June 6, 1975

The Assembly met at 3:23 p.m.

Hon. Leo T. McCarthy, Speaker of the Assembly, presiding

Chief Clerk James D. Driscoll at the Desk.

Assistant Clerk Ray Monday reading.

ROLL CALL

The roll was called, and the following answered to their names—78:

Alatorre	Cóllier	Knox	Perino
Antonovich	Craven	Lancaster	Priolo
Arnett	Cullen	Lanterman	Ralph
Badham	Davis	Lewis	Robinson
Bane	Deddeh	Lockyer	Rosenthal
Bannai	Dixon	MacDonald	Siegler
Berman	Duffy	Maddy	Sieroty
Beverly	Egelund	McAlister	Sutt
Boatwright	Fenton	McLennan	Thomas, Vincent
Briggs	Foran	McVittie	Thomas, William
Brown	Gaiamendi	Mende	Thurman
Burke	Goggin	Miller	Torres
Calvo	Greene	Mobley	Vasconcellos
Campbell	Gualco	Montoja	Vicencia
Carpenter	Hait	Mori	Warren
Chacon	Hayden	Murphy	Wilson
Chappie	Ingalls	Nestande	Wornum
Chel	Kaploff	Nimmo	Z'berg
Chimbole	Keene	Papan	Mr. Speaker
Chine	Keyser		

Quorum present.

PRAYER

The following prayer was offered by the Chaplain, Father Leo McAllister:

God, Please show us that the impossible is possible, that we, however old and great we may be, can become little and born again.

Show us that we can become open and understanding, that we, too, can heal and bind up.

Show us that fears can be allayed and that there can be peace on earth and in our hearts Show us that justice can be done, hunger appeased, bread broken and joy shared among men and women

This is what Your prophets have foretold Hasten the time and establish Your future.—AMEN

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker McCarthy, Mr Chimbole then led the Assembly in the pledge of allegiance to the Flag.

READING OF THE JOURNAL DISPENSED WITH

By unanimous consent, reading of the Journal of the previous legislative day was dispensed with.

LEAVES OF ABSENCE FOR THE DAY

The following Member was granted leave of absence for the day, because of illness:

Mr. Tucker, on request of Speaker McCarthy.

COMMUNICATIONS

Assembly Chamber, June 6, 1975

Mr Speaker: Pursuant to your instructions, the Chief Clerk has examined Assembly Bill No 18

And reports the same correctly engrossed

JAMES D DRISCOLL, Chief Clerk

Above bill re-referred to committee.

SPECIAL COMMITTEE MEETINGS

Speaker McCarthy was granted unanimous consent that the Judiciary Committee be permitted to hold a special meeting on June 13 at 8 a.m. to hear any holdover bills from the Tuesday, June 10, and Thursday, June 12, meetings.

RECESS

At 3:24 p.m., Speaker McCarthy declared the Assembly recessed

REASSEMBLED

At 3:31 p.m., the Assembly reconvened

Hon. Leo T. McCarthy, Speaker of the Assembly, presiding

AUTHOR'S AMENDMENTS

Committee on Judiciary

Assembly Chamber, June 6 1975

Mr. Speaker: The Chairman of your Committee on Judiciary reports Assembly Bill No 1

With author's amendments with the recommendation Amend. and re-refer to the Committee on Judiciary.

MILLER, Chairman

Assembly Bill No. 1—An act to amend Sections 125.5, 2100, 2101, 2361, 2362, 2364, 2372.5, 2436, and 2454 of, to add Sections 2100.5, 2100.6, 2100.7, 2100.8, 2101.5, 2101.6, 2122, 2372, and 2372.1 to, to add Article 11 (commencing with Section 800) to Chapter 1 of Division 2 of, to add Article 2.3 (commencing with Section 2123) and Article 2.4 (commencing with Section 2124.5) to Chapter 5 of Division 2 of, to repeal Section 2372 of, to repeal Article 11 (commencing with Section 800) of Chapter 1 of Division 2 of, and to repeal Article 2.3 (commencing with Section 2123) of Chapter 5 of Division 2 of, the Business and Professions Code; to amend Section 340.5 of, the Code of Civil Procedure, to add Division 17 (commencing with Section 21005) to the Health and Safety Code; and to add Section 11587 to the Insurance Code, relating to health, and making an appropriation therefor.

Bill read second time.

Consideration of Author's Amendments

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted:

Amendment 1

In line 5 of the heading of the printed bill, as amended in Assembly June 2, 1975, strike out "Miller,".

Amendment 2

In line 7 of the title, after the first comma, insert "to add Article 8.5 (commencing with Section 6146) to Chapter 4 of Division 3 of,".

Amendment 3

In line 10 of the title, after the semicolon, insert "to add Section 3333.1 to the Civil Code;".

Amendment 4

In line 11 of the title, after "of", insert ", and to add Section 667.7 to,".

Amendment 5

In line 11 of the title, strike out "to add"; strike out line 12 of the title, and in line 13 of the title, strike out "and Safety Code;".

Amendment 6

In line 13 of the title, strike out "Section 11587", and insert "Sections 11587 and 11588".

Amendment 7

On page 5, strike out line 1, and insert
"SECTION 1 This act shall be known and may be cited as the Medical Injury Compensation Reform Act

SEC 1.5 It is the intent of the Legislature that nothing in this act shall alter existing laws with respect to the right of parties to enter into voluntary and binding agreements to arbitrate disputes arising out of the provision of health care, as provided in Title 9 (commencing with Section 1280) of Part 3 of the Code of Civil Procedure."

Amendment 8

On page 5, strike out lines 2 to 14, inclusive, strike out pages 6 to 22, inclusive; and on page 23, strike out lines 1 to 7, inclusive.

Amendment 9

On page 25, line 19, after "settlement", insert "or arbitration award".

Amendment 10

On page 25, line 25, after "thereto", insert "or within 30 days after service of such arbitration award on the parties".

Amendment 11

On page 25, line 35, after "settlement", insert "or arbitration award".

Amendment 12

On page 26, line 6, after "thereto", insert "or 30 days after service of such arbitration award on the parties".

Amendment 13

On page 26, line 13, after "agreement", insert "or service of such arbitration award on the parties".

Amendment 14

On page 28, strike out lines 37 to 40, inclusive; strike out page 29; and on page 30, strike out lines 1 to 12, inclusive.

Amendment 15

On page 41, between lines 37 and 38, insert

"SEC 24 2 Article 8 5 (commencing with Section 6146) is added to Chapter 4 of Division 3 of the Business and Professions Code, to read:

**Article 8 5. Contingency Fee Agreements:
Medical Injury Tort Claims**

6146. (a) Except as provided in subdivision (b), an attorney shall not contract for or collect a contingency fee for representing any person seeking damages in connection with a medical injury tort claim in excess of the following limits:

(1) 40 percent of the first fifty thousand dollars (\$50,000) recovered.

(2) 33 $\frac{1}{3}$ percent of the next fifty thousand dollars (\$50,000) recovered.

(3) 25 percent of the next one hundred thousand dollars (\$100,000) recovered.

(4) 10 percent of any amount on which the recovery exceeds two hundred thousand dollars (\$200,000).

Such limitations shall apply regardless of whether the recovery is by settlement, arbitration, or judgment, or whether the person for whom the recovery is made is a responsible adult, an infant, or a person of unsound mind.

(b) Where a plaintiff is awarded money damages in a medical injury tort action and such plaintiff's attorney provided or is providing legal services pursuant to a contingency fee agreement, the judge shall review in open court the provisions of such agreement with all parties, including the plaintiff individually, and all attorneys seeking benefits under the agreement; provided that neither the agreement nor any of its

terms shall be disclosed to the jury or in any way considered in determining the amount of damages to be awarded the plaintiff. The final judgment shall require the defendant to deduct from the award to the plaintiff the amount of the award which represents attorney's fees and to pay the fees directly to such attorney. The amount of any attorney's fee shall be determined according to the contingency fee agreement unless the court substitutes a different amount upon a specific finding that the amount agreed upon would be substantially inadequate or substantially excessive in view of the professional legal services actually rendered on behalf of the plaintiff.

(c) The Board of Governors of the State Bar of California shall report and make recommendation to the Legislature by July 1, 1976, on an equitable method for regulating compensation of defense counsel consistent with the policies embodied in this article regarding regulation of plaintiff's attorney's fees.

SEC 245 Section 33331 is added to the Civil Code, to read:

33331 Damages awarded to a plaintiff in an action for personal injury against a provider of health care services shall include and be limited to the following actual economic loss:

(1) The reasonable cost of necessary medical, surgical, and hospital treatment

(2) The reasonable cost of rehabilitation therapy.

(3) All reasonable expenses necessarily incurred in obtaining services in lieu of those the person would have performed for the benefit of himself or his family if he had not been injured.

(4) All reasonable expenses for hiring a substitute to perform self-employment services, in mitigation of loss of income, or for hiring special help necessary to enable the injured person to work and mitigate loss of income.

(5) Loss of earnings, which shall be calculated by determining the probable income for the period for which such loss is incurred, reduced by an amount equal to any income which the injured person earns from substitute work, any income which such person would have earned in available substitute work he was capable of performing but unreasonably failed to undertake, and any income which such person would have earned by hiring an available substitute to perform self-employment services but unreasonably failed to do.

(6) Attorney fees directly related to claiming and proving liability and damages

(7) Except as provided in this paragraph, all noneconomic loss, including pain, suffering, inconvenience, physical impairment, and other nonpecuniary damage which would have been recoverable under the law but for the enactment of this section up to a limit of eight hundred dollars (\$800) per month. However, such limitation may be exceeded in cases of extraordinary hardship, where noneconomic loss substantially outweighs actual economic loss. In no case shall a patient be entitled to noneconomic loss where compensation for lost earnings exceeds one thousand five hundred dollars (\$1,500) per month and, in no event shall the combined noneconomic losses and lost wages exceed one thousand five hundred dollars (\$1,500) per month.

(b) Any damages awarded to a plaintiff in an action for personal injury against a provider of health care services shall be offset by any amount payable as a benefit to the plaintiff as a result of the personal injury under the United States Social Security Act, any state or federal income disability or workmen's compensation act, any accident, health, sickness, or disability insurance, and any contract or agreement of any group, organization, partnership, or corporation to provide or to pay for or reimburse the cost of medical, hospital, dental or other health care services. The amount which is offset from the judgment shall be reduced by (1) any amount which the plaintiff has paid or contributed during the calendar year in which his right to benefits arose for any program, plan, or policy under which benefits are payable and (2) if a program, plan, or policy was provided to the plaintiff by his employer as an employee benefit, an amount equal to any reasonable cost which would have been incurred by the plaintiff during the calendar year in which his right to benefits arose if he had personally paid for the program, plan, or policy."

Amendment 16

On page 42, between lines 15 and 16, insert

"SEC 26. Section 667.7 is added to the Code of Civil Procedure, to read:

667.7 (a) In any action for personal injury or wrongful death against a provider of health care services, a superior court may, or at the request of either party shall, enter a judgment ordering that money damages or its equivalent for future damages of the judgment creditor be paid in whole or in part by periodic payments rather than by a lump sum payment. In entering a judgment ordering the payment of future damages by periodic payments, the jury or the court, in the event the trial is without a jury, shall make a specific finding as to the dollar amount of periodic payments which will compensate the judgment creditor for such future damages.

(b) The judgment ordering the payment of future damages by periodic payments shall specify the recipient or recipients of the payments, the dollar amount of the payments, the interval between payments, and the number of payments or the period of time over which payments shall be made. The period of time may be measured by the occurrence of a contingency or contingencies such as the death of the judgment creditor.

(c) The judgment ordering the payment of future damages by periodic payments may also specify that the recipients, dollar amount, interval and number of payments or period of time over which payments are made shall be subject to modification or termination on the occurrence of a contingency or contingencies specified in the judgment. Such contingencies may include, but are not limited to, contingencies providing for the continuation of periodic payments or lump sum payments to the spouse, minor children, or other dependents of the judgment creditor in the event of the death of the judgment creditor prior to some specified date. Any future modification and the dollar amount of the periodic payments upon the occurrence of a specified

contingency or contingencies shall be specified in the judgment and shall be expressed in specific dollar amounts or in a fixed percentage of a specific dollar amount so that the dollar amount of the modified periodic payment is definite and certain at the time judgment is entered

(d) Following the occurrence or expiration of all contingencies specified in the periodic payment judgment, any obligation of the judgment debtor to make further payments shall cease.

(e) As used in this section:

(1) "Future damages" includes, but is not limited to, damages for future medical treatment, care or custody, loss of future earnings, loss of bodily function, or future pain and suffering of the judgment creditor

(2) "Periodic payments" means the payment of money or delivery of other property to the judgment creditor at regular intervals.

(f) It is the intent of the Legislature in enacting this section to authorize the entry of judgments in malpractice actions against health care providers which provide for the payment of future damages through periodic payments rather than lump sum payments. By authorizing periodic payment judgments, it is the further intent of the Legislature that the courts will utilize such judgments to provide compensation sufficient to meet the needs of an injured plaintiff and those persons who are dependent on the plaintiff for whatever period is necessary while eliminating the potential windfall from a lump sum recovery which was intended to provide for the care of an injured plaintiff over an extended period who then dies shortly after the judgment is paid, leaving the balance of the judgment award to persons and purposes for which it was not intended. It is also the intent of the Legislature that all elements of the periodic payment program be specified with certainty in the judgment ordering such payments and that the judgment not be subject to modification at some future time which might alter the specifications of the original judgment "

Amendment 17

On page 43, between lines 28 and 29, insert

"SEC' 27.5 Section 11588 is added to the Insurance Code, to read:

11588 No insurer authorized to do business in this state and to provide professional liability insurance to persons lawfully engaged in the practice of medicine or osteopathy, health plans, and to partnerships or corporations lawfully engaged in the operation of hospitals, sanitariums, clinics, or other health care facilities, shall refuse to issue or renew insurance to such persons, partnerships or corporations, on the grounds that such persons, partnerships or corporations have entered, or intend to enter, into valid written agreements with patients or prospective patients for the arbitration of cases or controversies arising out of the professional or business relationships between such persons, partnerships or corporation and said patients "

Bill ordered reprinted, and to be re-referred to the Committee on Judiciary

ADJOURNMENT

At 5 20 p m, Speaker McCarthy declared the Assembly adjourned until 9 a m., Monday, June 9, 1975.

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNALFOURTEENTH LEGISLATIVE DAY
TWENTY-SECOND CALENDAR DAY**IN ASSEMBLY**Assembly Chamber, Sacramento
Monday, June 9, 1975

The Assembly met at 12:38 p.m.

Hon. Leo T. McCarthy, Speaker of the Assembly, presiding

Chief Clerk James D. Driscoll at the Desk.

Assistant Clerk Ray Monday reading.

ROLL CALL

The roll was called, and following answered to their names—79:

Alatorre	Coller	Knox	Priolo
Antonovich	Craven	Lancaster	Ralph
Arnett	Cullen	Lanterman	Robinson
Badham	Davis	Lewis	Rosenthal
Bane	Deddeh	Lockyer	Siegler
Bannan	Dixon	MacDonald	Sieroty
Berman	Duffy	Maddly	Sutt
Beverly	Egeland	McAlister	Thomas, Vincent
Bontwright	Fenton	McLennan	Thomas, William
Buggs	Foran	McVittie	Thurman
Brown	Gaiamendi	Moede	Torres
Burke	Goggin	Miller	Tucker
Calvo	Greene	Mobley	Vasconcellos
Campbell	Gualco	Montoya	Vicenta
Carpenter	Hart	Mori	Warren
Chacon	Hayden	Murphy	Wilson
Chappie	Ingalls	Nestande	Wornum
Chel	Kapiloff	Ninno	Z'berg
Chimhole	Keene	Papan	Mr. Spenker
Chne	Keysor	Perino	

Quorum present.

PRAYER

The following prayer was offered by the Chaplain, Father Leo McAllister

Father, Help us to welcome each day as if it were our first, so that we may have enthusiasm in our souls, excitement in our hearts and warmth in our dispositions.

Help us to welcome each day as if it were our last, so that we may have an urgency in our efforts, a deep concern for the world in our minds and the peace and love of God in our hearts.—AMEN.

②

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker McCarthy, Mr Hayden then led the Assembly in the pledge of allegiance to the Flag

MOTION TO DISPENSE WITH READING OF THE JOURNAL

Further reading of the Journal of the previous legislative day was dispensed with on motion of Mr. Beverly, seconded by Mr Miller.

COMMUNICATIONS

Assembly Chamber, June 8, 1975

Mr Speaker Pursuant to your instructions, the Chief Clerk has examined
Assembly Bill No. 1

And reports the same correctly engrossed

JAMES D. DRISCOLL, Chief Clerk

Above bill re-referred to committee

AUTHOR'S AMENDMENTS**Committee on Judiciary**

Assembly Chamber, June 9, 1975

Mr. Speaker The Chairman of your Committee on Judiciary reports
Assembly Bill No. 14
Assembly Bill No. 21

With author's amendments with the recommendation Amend, and re-refer to the Committee on Judiciary.

MILLER, Chairman

Assembly Bill No. 14—An act to add Article 12 (commencing with Section 825) to Chapter 1 of Division 2 of the Business and Professions Code, relating to malpractice actions.

Bill read second time.

Consideration of Author's Amendments

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted:

Amendment 1

On page 2, lines 3 and 4, of the printed bill, strike out "one thousand six hundred sixty-seven dollars (\$1,667)", and insert "five thousand dollars (\$5,000)".

Amendment 2

On page 2, line 9, after "division", insert a comma.

Amendment 3

On page 2, line 10, after "division," insert "or against a hospital as defined in subdivisions (a) and (b) of Section 1250 of the Health and Safety Code,".

Bill ordered reprinted, and to be re-referred to the Committee on Judiciary

Assembly Bill No. 21—An act to add Section 3333.1 to the Civil Code, relating to damages.

Bill read second time.

Consideration of Author's Amendments

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted.

Amendment 1

On page 1 of the printed bill, strike out lines 1 to 4, inclusive; on page 2, strike out lines 1 to 12, inclusive; and in line 13, strike out "(b)", and insert

"SECTION 1 Section 3333 1 is added to the Civil Code, to read: 3333 1. (a)".

Amendment 2

On page 2, strike out lines 33 to 35, inclusive, and insert

"(b) The plaintiff's right to direct benefits from collateral sources of indemnity and the amount of the direct benefits payable by such collateral sources of indemnity shall be admissible in evidence in any action for personal injury against a provider of health care services acting as such a provider

(c) Collateral sources of indemnity shall include, but not be limited to, any benefit payable by"

Bill ordered reprinted, and to be re-referred to the Committee on Judiciary.

RECESS

At 12.39 p.m., Speaker McCarthy declared the Assembly recessed

REASSEMBLED

At 2 47 p m, the Assembly reconvened

Hon Leo T. McCarthy, Speaker of the Assembly, presiding.

ADJOURNMENT

At 2 48 p m, Speaker McCarthy declared the Assembly adjourned until 9 a m, Tuesday, June 10, 1975.

LEO T MCCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNALFIFTEENTH LEGISLATIVE DAY
TWENTY-THIRD CALENDAR DAY**IN ASSEMBLY**Assembly Chamber, Sacramento
Tuesday, June 10, 1975

The Assembly met at 10.10 a m.

Hon Robert P. Nimmo, Member of the Assembly, 29th District, presiding.

Chief Clerk James D. Driscoll at the Desk.

Assistant Clerk Ray Monday reading.

ROLL CALL

The roll was called, and the following answered to their names—74.

Alatorre	Collier	Knov	Papan
Antonovich	Craven	Lancaster	Perino
Arnett	Cullen	Lanterman	Priolo
Badham	Davis	Lewis	Ralph
Bane	Deddeh	Lockyer	Rosenthal
Banna	Dixon	MacDonald	Siegler
Berman	Duffy	Maddy	Sieroty
Beverly	Egeland	McAlister	Sutt
Boatwright	Fenton	McLennan	Thomas, Vincent
Brown	Foran	McVittie	Thomas, William
Burke	Garamendi	Meade	Thurman
Calvo	Goggin	Miller	Vaconcellos
Campbell	Greene	Mobley	Vicencia
Carpenter	Gualco	Montoya	Warren
Chacon	Hart	Mori	Wilson
Chappie	Hayden	Murphy	Wornum
Chel	Kaploff	Nestande	Z'berg
Chimbole	Keene	Nimmo	Mr Speaker
Cline	Keysor		

Quorum present.

REGULAR BUSINESS DISPENSED WITH

By unanimous consent, the regular order of business of the Assembly was dispensed with for this legislative day.

LEAVES OF ABSENCE FOR THE DAY

The following Members were granted leaves of absence for the day, because of illness:

Mr. Briggs, on request of Acting Speaker Nimmo
 Mr. Ingalls, on request of Acting Speaker Nimmo.
 Mr. Tucker, on request of Acting Speaker Nimmo.

The following Members were granted leaves of absence for the day, on personal business, and desired to waive their per diem:

Mr. Robinson, on request of Acting Speaker Nimmo.
 Mr. Torres, on request of Acting Speaker Nimmo.

COMMUNICATIONS

Assembly Chamber, June 10, 1975

Mr. Speaker Pursuant to your instructions, the Chief Clerk has examined.

Assembly Bill No. 14

Assembly Bill No. 21

And reports the same correctly engrossed.

JAMES D. DRISCOLL, Chief Clerk

Above bills re-referred to committee.

WITHDRAWAL AND RE-REFERENCE OF BILLS

Acting Speaker Nimmo was granted unanimous consent that Assembly Bill No. 11 be withdrawn from the Committee on Finance, Insurance, and Commerce, and re-referred to the Committee on Judiciary.

Joint Rule 62(a) Waived

Acting Speaker Nimmo was granted unanimous consent that Joint Rule 62(a) be waived for the purpose of setting Assembly Bill No. 11 for hearing in the Committee on Judiciary on June 12, 1975 at 8 00 a.m.

REPORTS OF STANDING COMMITTEES

Committee on Finance, Insurance, and Commerce

Assembly Chamber, June 10, 1975

Mr. Speaker Your Committee on Finance, Insurance, and Commerce reports

Assembly Bill No. 10

With amendments with the recommendation: Amend, do pass, as amended, and be re-referred to the Committee on Ways and Means.

McALISTER, Chairman

Above bill ordered to second reading.

AUTHOR'S AMENDMENTS

Committee on Judiciary

Assembly Chamber, June 10, 1975

Mr. Speaker The Chairman of your Committee on Judiciary reports

Assembly Bill No. 11

Assembly Bill No. 14

With author's amendments with the recommendation: Amend, and re-refer to the Committee on Judiciary.

MILLER, Chairman

Assembly Bill No. 11—An act to amend Sections 11770, 11773, 11774, 11777, 11778, and 11779 of, to add Part 7 (commencing with Section 12700) to Division 2 of, and to add Division 46 (commencing with Section 14000) to, the Insurance Code, and making an appropriation therefor.

Bill read second time.

Consideration of Author's Amendments

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted:

Amendment 1

In line 4 of the title of the printed bill, after the second comma, insert "relating to medical malpractice insurance,"

Amendment 2

On page 10, strike out line 18, and insert " , health care institution, or any any other health care provider, other than the injury or".

Amendment 3

On page 10, strike out lines 26 to 29, inclusive; and in line 30, strike out "14002", and insert "14001".

Amendment 4

On page 11, line 7, strike out the second "or".

Amendment 5

On page 11, line 25, after "in", insert "a".

Amendment 6

On page 11, lines 31 and 32, strike out "of the deceased patient".

Amendment 7

On page 11, line 37, after "physicians", insert "and surgeons".

Amendment 8

On page 12, strike out lines 5 and 6, and insert "(1) A health care facility authorized by law."

Amendment 9

On page 12, line 33, after "pursuant", insert "to".

Amendment 10

On page 13, line 12, strike out "by the presiding", strike out line 13; and in line 14, strike out "injury".

Amendment 11

On page 14, line 18, strike out the second "the", and insert "this".

Amendment 12

On page 18, strike out lines 15 to 17, inclusive.

Amendment 13

On page 19, line 33, strike out "This section", and strike out line 34

Amendment 14

On page 20, line 3, after "panel", insert "or upon final settlement".

Amendment 15

On page 20, strike out lines 5 to 7, inclusive, and insert "credited to the insurer."

Amendment 16

On page 21, line 23, after the period, insert "Any request for a re-hearing shall be made within 30 days after the date of the decision of the hearing panel under Section 14210 "

Amendment 17

On page 21, line 27, strike out "made", and insert "computed".

Amendment 18

On page 21, between lines 37 and 38, insert

"(8) Cost-of-living indices

141421 Compensation awarded pursuant to this division shall be reduced by any benefits to which the patient or his survivor is entitled by reason of the loss, including benefits payable by the Federal Social Security Act, except Titles XVIII and XIX thereof, benefits payable pursuant to Division 4 (commencing with Section 3200) of the Labor Code, and insurance benefits other than the proceeds of life insurance. In determining the amount of such insurance benefits for purposes of this section, insurance premiums paid by or on behalf of the insured to secure insurance benefits shall be deducted from the total of such benefits which the claimant has received or to which he is entitled "

Amendment 19

On page 24, line 14, strike out ", and to the number of attorneys,"

Amendment 20

On page 25, line 28, strike out "superior court", and insert "Judicial Council".

Amendment 21

On page 25, line 29, after "court", insert "in the county of the occurrence of the compensable injury".

Amendment 22

On page 25, strike out line 31, and insert "state board or agency to which the".

Amendment 23

On page 25, line 34, strike out "mail", and insert "serve notice".

Amendment 24

On page 25, line 36, strike out "mailing", and insert "notice"

Amendment 25

On page 26, line 2, strike out "three peremptory challenges", and insert "one peremptory challenge"

Amendment 26

On page 26, line 15, strike out "of", and insert "over"

Amendment 27

On page 27, line 12, strike out "letters", and insert "documents".

Amendment 28

On page 28, line 32, after the period, insert "All proceedings shall be reported by a court reporter as prescribed by the superior court of the county in which the proceedings are held."

Amendment 29

On page 29, line 10, strike out "The attorney of"; and strike out lines 11 to 13, inclusive, and insert "Any party or his attorney may make a statement on the facts of the case."

Amendment 30

On page 30, line 16, after "thereupon", insert "give notice to and".

Amendment 31

On page 31, line 33, after "dispute," insert "subject to cross examination,".

Amendment 32

On page 32, line 18, strike out "of", and insert "over".

Amendment 33

On page 32, between lines 26 and 27, insert "14235. No discovery shall be permitted by either party other than that prescribed in this division unless otherwise ordered by the hearing panel."

Bill ordered reprinted, and to be re-referred to the Committee on Judiciary.

Assembly Bill No. 14—An act to add Article 12 (commencing with Section 9, 1975, strike out "five thousand dollars (\$5,000)", and insert "ten thousand dollars (\$10,000)").

Bill read second time.

Consideration of Author's Amendments

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted:

Amendment 1

On page 2, lines 6 and 7, of the printed bill, as amended in Assembly June 9, 1975, strike out "five thousand dollars (\$5,000)", and insert "ten thousand dollars (\$10,000)".

Bill ordered reprinted, and to be re-referred to the Committee on Judiciary.

INTRODUCTION, FIRST READING, AND REFERENCE OF ASSEMBLY BILLS

The following bill was introduced, read the first time, and ordered held at the Desk

Assembly Bill No. 34: By Assemblyman Torres—An act to add Division 5 (commencing with Section 14000) to the Insurance Code, relating to medical malpractice insurance, and making an appropriation therefor.

REFERENCE OF BILLS TO COMMITTEE

Pursuant to the Assembly Rules, the following bill was referred to committee:

Assembly

Bill No.

Committee

34-----Finance, Insurance, and Commerce

RECESS

At 10.11 a.m., Acting Speaker Nimmo declared the Assembly recessed

REASSEMBLED

At 2.47 p.m., the Assembly reconvened.

Hon Robert P Nimmo, Member of the Assembly, 29th District, presiding.

ADJOURNMENT

At 2.48 p.m., Acting Speaker Nimmo declared the Assembly adjourned until 9 a.m., Wednesday, June 11, 1975.

LEO T McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNALSIXTEENTH LEGISLATIVE DAY
TWENTY-FOURTH CALENDAR DAY**IN ASSEMBLY**Assembly Chamber, Sacramento
Wednesday, June 11, 1975

The Assembly met at 10:28 a m

Hon William Thomas, Member of the Assembly, 33rd District,
presiding

Chief Clerk James D Driscoll at the Desk

Assistant Clerk Ray Monday reading

ROLL CALL

The roll was called, and the following answered to their names—75:

Antonovich	Collier	Knov	Priolo
Arnett	Craven	Lancaster	Ralph
Badham	Cullen	Lanterman	Robinson
Bane	Davis	Lewis	Rosenthal
Bannai	Deddeh	Locker	Siegler
Berman	Dixon	MacDonald	Sieroty
Beverly	Duffy	Maddy	Suitt
Boatwright	Egeland	McAlister	Thomas, Vincent
Briggs	Fenton	McVittie	Thomas, William
Brown	Folan	Meade	Thurman
Burke	Garamendi	Miller	Torres
Calvo	Goggin	Mohley	Vasconcellos
Campbell	Greene	Montoya	Vicencia
Carpenter	Gualco	Mori	Warren
Chacon	Hart	Murphy	Wilson
Chappie	Hayden	Nestande	Wornum
Chel	Ingalls	Nimmo	Zberg
Chimbole	Kapiloff	Papan	Mt Speaker
Cline	Keene	Perino	

Quorum present

REGULAR BUSINESS DISPENSED WITH

By unanimous consent, the regular order of business of the Assembly was dispensed with for this legislative day.

LEAVES OF ABSENCE FOR THE DAY

The following Members were granted leaves of absence for the day, because of illness:

- Mr Alatorre, on request of Acting Speaker William Thomas.
- Mr. Tucker, on request of Acting Speaker William Thomas.

The following Member was granted leave of absence for the day, on personal business, and desired to waive his per diem:

- Mr. Keysor, on request of Acting Speaker William Thomas.

The following Member was granted leave of absence for the day, because of a death in his family:

- Mr McLennan, on request of Acting Speaker William Thomas.

COMMUNICATIONS

Assembly Chamber, June 11, 1975

Mr Speaker Pursuant to your instructions, the Chief Clerk has examined:

Assembly Bill No 11

Assembly Bill No 14

And reports the same correctly engrossed

JAMES D DRISCOLL, Chief Clerk

Above bills re-referred to committee.

ANNOUNCEMENTS

Acting Speaker William Thomas was granted unanimous consent that the Health Committee be permitted to hold a special meeting Monday, June 16, at 7:30 p m to hear Assembly Bills Nos 2, 6, 31, 4, 5, and 13.

**CONSIDERATION OF DAILY FILE
SECOND READING OF ASSEMBLY BILLS**

Assembly Bill No. 10—An act to add Article 8 (commencing with Section 1325) to Chapter 2 of Division 2 of the Health and Safety Code, relating to health, and declaring the urgency thereof, to take effect immediately

Bill read second time.

Consideration of Committee Amendments

The following amendments, proposed by the Committee on Finance, Insurance, and Commerce, were read, and adopted:

Amendment 1

On page 2 of the printed bill, line 17, strike out "or (c)", and insert "(c) or (d)".

Amendment 2

On page 3, line 3, after "(b)", insert "(d)".

Amendment 3

On page 3, between lines 11 and 12, insert
 "(d) As an alternative to proceeding under subdivision (b) or (c), the Secretary of the Health and Welfare Agency may, on behalf of the state, make a loan or guarantee a third party loan to the operator or the bankruptcy receiver of the hospital during the pending of Chapter 11 of Title 11 of the United States Code proceedings for the

purposes of keeping the hospital open and affecting an agreement with unsecured creditors. Nothing in this subdivision shall authorize the creation of a debt or liability of the state within the meaning of Section 1 of Article XVI of the State Constitution "

Bill ordered reprinted, and to be re-referred to the Committee on Ways and Means.

AUTHOR'S AMENDMENTS

Committee on Finance, Insurance, and Commerce

Assembly Chamber, June 11, 1975

Mr Speaker: The Chairman of your Committee on Finance, Insurance, and Commerce reports

Assembly Bill No 8

With author's amendments with the recommendation Amend. and re-refer to the Committee on Finance, Insurance, and Commerce

McALISTER, Chairman

Assembly Bill No. 8—An act to add Division 5 (commencing with Section 14000) to the Insurance Code, relating to medical malpractice, and making an appropriation therefor.

Bill read second time

Consideration of Author's Amendments

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted:

Amendment 1

On page 2 of the printed bill, strike out line 5, and insert "INSURANCE

CHAPTER 1. STATE MEDICAL MALPRACTICE INSURANCE FUND".

Amendment 2

On page 2, between lines 15 and 16, insert

"(d) "Panel" means the Medical Malpractice Hearing Panel created by this division "

Amendment 3

On page 2, line 26, strike out "director", and insert "commissioner".

Amendment 4

On page 8, between lines 18 and 19, insert

"CHAPTER 2 MEDICAL MALPRACTICE HEARING PANEL

14040. The Medical Malpractice Hearing Panel is hereby created in the department, to be composed of five members appointed by the Governor as follows: A list of five persons shall be submitted to the Governor by each of the following: The State Bar of California, the California Supreme Court, the California Medical Association, and the California Health Coordinating Council. The Governor shall select one name from each such list for membership on the panel.

14041. Each civil action filed in this state against a licensee or medical corporation alleging medical malpractice shall be referred to the panel by the clerk of the court in which such action is filed. No proceedings may be held in such civil action except as provided in this chapter.

14042 Upon receipt of the referral of a civil action pursuant to Section 14041, the panel shall, as expeditiously as possible, conduct such investigation of the action as it deems necessary, and conduct a hearing thereon to determine the validity of the complaint. The panel shall make such determinations in the action as the evidence in the case merits.

If the panel finds for the defendant, the panel shall award the defendant all costs incurred in this action, to be paid by the plaintiff.

If the panel finds for the plaintiff, the panel shall award the plaintiff all medical costs actually incurred and all medical costs which the plaintiff will incur in the future arising from the defendant's malpractice. The panel shall also award the plaintiff noneconomic benefits, including but not limited to, pain and suffering, pursuant to a schedule adopted by the Judicial Council, and all costs incurred in the action.

14043 If either party is aggrieved by a determination and award of the panel, such party may obtain a trial de novo in the superior court having jurisdiction over the matter. The determination and award of the panel shall be admissible by either party in such action.

14044. In any case in which the physician or medical corporation is found to be guilty of medical malpractice, whether by the panel or after a trial, the panel or the court clerk, as the case may be, shall immediately send a record of the proceedings to the Board of Medical Examiners of the State of California for such of the following disciplinary actions as are found to be appropriate by the Board of Medical Examiners after hearing:

- (a) Censure
- (b) Probation for a determinate period of time.
- (c) Suspension of license for a determinate period of time.
- (d) Revocation of license "

Amendment 5

On page 8, line 20, strike out "to", and insert "the sum of _____ dollars (\$_____), to be allocated as follows:

- (a) To".

Amendment 6

On page 8, after line 22, insert

"(b) The sum of _____ dollars (\$ _____) to the State Controller for reimbursement to local agencies pursuant to Section 2231 of the Revenue and Taxation Code for costs incurred by them pursuant to this act."

Bill ordered reprinted, and to be re-referred to the Committee on Finance, Insurance, and Commerce.

RECESS

At 10:29 a. m., Acting Speaker William Thomas declared the Assembly recessed.

REASSEMBLED

At 3:01 p. m., the Assembly reconvened

Hon. William Thomas, Member of the Assembly, 33rd District, presiding.

AUTHOR'S AMENDMENTS**Committee on Judiciary**

Assembly Chamber, June 11, 1975

Mr Speaker The Chairman of your Committee on Judiciary reports

Assembly Bill No 1

With author's amendments with the recommendation Amend, and re-refer to the Committee on Judiciary

MILLER, Chairman

Assembly Bill No. 1—An act to amend Sections 125 5, 2100, 2101, 2361, 2362, 2364, 2372 5, 2436, and 2454 of, to add Sections 2100 5, 2100 6, 2100.7, 2100 8, 2101 5, 2101 6, 2122, 2372 and 2372 1 to, to add Article 11 (commencing with Section 800) to Chapter 1 of Division 2 of, to add Article 2 3 (commencing with Section 2123) and Article 2 4 (commencing with Section 2124 5) to Chapter 5 of Division 2 of, to add Article 8 5 (commencing with Section 6146) to Chapter 4 of Division 3 of, to repeal Section 2372 of, to repeal Article 11 (commencing with Section 800) of Chapter 1 of Division 2 of, and to repeal Article 2 3 (commencing with Section 2123) of Chapter 5 of Division 2 of, the Business and Professions Code; to add Section 3333 1 to the Civil Code, to amend Section 340 5 of, and to add Section 667 7 to, the Code of Civil Procedure, and to add Sections 11587 and 11588 to the Insurance Code, relating to health, and making an appropriation therefor

Bill read second time.

Consideration of Author's Amendments

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted

Amendment 1

In line 6 of the heading of the printed bill, as amended in Assembly June 6, 1975, strike out "and Perino"; and strike out line 7, and insert "Perino, and Vasconcellos

(Principal Senate Coauthor Rains; Coauthors, Senators Greene and Nejedly)".

Amendment 2

In line 1 of the title, after "2101," insert "2119,".

Amendment 2.5

In line 3 of the title, after "2122," insert "2361 3,"

Amendment 3

In line 12 of the title, after "Code," insert "to amend Section 43.8 of, and".

Amendment 4

In line 13 of the title, strike out "Section 340 5", and insert "Sections 340 5 and 1094 5".

Amendment 4.5

On page 6, strike out lines 8 to 10, inclusive, and insert "provision of health care."

Amendment 5

On page 24, strike out lines 3 to 37, inclusive, and insert "125 5 (a) The superior court for the county in which any person has engaged or is about to engage in any act which constitutes a violation of a chapter of this code administered or enforced by a board

within the department may, upon a petition filed by the board with the approval of the director, issue an injunction or other appropriate order restraining such conduct. The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that no undertaking shall be required. As used in this section, "board" includes commission, bureau, division agency and a medical quality review committee.

(b) The superior court for the county in which any person has engaged in any act which constitutes a violation of a chapter of this code administered or enforced by a board within the department may, upon a petition filed by the board with the approval of the director, order such person to make restitution to persons injured as a result of such violation.

(c) The court may order a person subject to an injunction or restraining order, provided for in subdivision (a) of this section, or subject to an order requiring restitution pursuant to subdivision (b), to reimburse the petitioning board for expenses incurred by the board in its investigation related to its petition.

(d) The remedy provided for by this section shall be in addition to, and not a limitation on, the authority provided for in any other section of this code."

Amendment 5.5

On page 25, line 7, strike out "Examiners", and insert "Quality Assurance".

Amendment 6

On page 25, strike out lines 35 to 40, inclusive, and on page 26, strike out lines 1 to 5, inclusive, and insert

"Each such complaint shall be immediately forwarded to the appropriate medical quality review committee for action, pursuant to Article 23 (commencing with Section 2123) of Chapter 5

(c) The contents of any such file shall be confidential except that it may be reviewed (1) by the person involved or his counsel or representative, save for the information or evidence supplied pursuant to subdivision (g) of Section 2361 which shall remain confidential unless a disciplinary proceeding is brought by the board, and said information or evidence is used as a basis of disciplinary action, (2) by any district attorney or representative or investigator therefor, (3) by any representative of the Attorney General's office or investigator thereof, or (4) by any investigator of the Department of Consumer Affairs. Such person may, but is not required to submit any additional exculpatory or explanatory statements or other information which statements or other information must be included in the file."

Amendment 7

On page 29, line 3, after the parenthesis, insert " , or any health care service plan or medical care foundation".

Amendment 8

On page 29, line 7, strike out "initial".

Amendment 8.5

On page 29, line 8, after "any", insert "disciplinary".

Amendment 9

On page 29, line 14, strike out "it", and insert "such action"

Amendment 10

On page 29, line 22 after "including", insert "a summary of administrative and disciplinary action taken with respect to such reports and".

Amendment 11

On page 29, line 23, strike out "department", and insert "agency"

Amendment 11.2

On page 30, line 23, strike out "Review".

Amendment 11.5

On page 30, line 24, strike out " , Examination and Recertification "

Amendment 11.6

On page 30, line 28, strike out "Review".

Amendment 11.7

On page 30, lines 38 and 39, strike out " , Examination, and Recertification "

Amendment 12

On page 31, line 36, strike out "or of any other board under"; strike out line 37; and in line 38, strike out "and 3600".

Amendment 12.2

On page 32, line 5, strike out "Review"

Amendment 12.4

On page 32, lines 7 and 8, strike out " , Examination and Recertification "

Amendment 13

On page 32, line 9, strike out "two", and insert "three"

Amendment 14

On page 32, line 11, strike out "three", and insert "two"

Amendment 15

On page 32, line 21, strike out "Review".

Amendment 16

On page 32, lines 22 and 23, strike out "and periodic recertification".

Amendment 17

On page 32, line 23, after the period, insert "Special continuing education standards shall be developed for certificate holders who are also holders of board specialty certificates."

Amendment 17.5

On page 32, line 25, strike out "recertification", and insert "reassessment of competence"

Amendment 18

On page 32, line 26, strike out "Recertification", and insert "Such reassessment".

Amendment 18.5

On page 32, lines 27 and 28, strike out “, Examination and Recertification”.

Amendment 18.6

On page 32, between lines 29 and 30, insert
 “SEC 115 Section 2119 of the Business and Professions Code is amended to read

2119 *The A division of the board may, within its jurisdiction, adopt, amend, or repeal, in accordance with the provisions of the Administrative Procedure Act, such rules as may be reasonably necessary to enable it to carry into effect the provisions of this chapter. It shall require the affirmative vote of seven members to carry any motion or resolution, to adopt any rule, to pass any measure, or to authorize the issuance of any certificate under this chapter.*

Any member of the board may administer oaths in all matters pertaining to the duties of the board, and the board may take evidence in any matter cognizable by it.

Five members of the Division of Medical Quality, three members of the Division of Licensing, and three members of the Division of Allied Health Professions shall constitute a quorum for the transaction of business at any meeting.

It shall require the affirmative vote of a majority of those present at a meeting which shall be at least a majority of a minimum quorum within a division to carry any motion or resolution, to adopt any rule to pass any measure, or to authorize the issuance of any certificate under this chapter, except that a decision by the Division of Medical Quality to revoke the certificate of a physician and surgeon shall require an affirmative vote of five members of the division.”

Amendment 18.7

On page 32, line 32, strike out “Review”.

Amendment 18.8

On page 33, line 3, strike out “Review”

Amendment 18.9

On page 33, line 24, strike out “Review”.

Amendment 19

On page 34, strike out lines 18 to 40, inclusive, and on page 35, strike out lines 1 to 16, inclusive, and insert

“2123.3 A medical quality review committee is hereby created for each of the districts established by Section 2123.2 Each committee shall be composed of persons appointed by the Governor from among residents of the district

The medical quality review committees shall have the following composition

(a) The first district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be licentiates of a healing arts board other than the Board of Medical Quality Assurance

(b) The second district shall be composed of 20 members, 12 of whom shall hold valid physician's and surgeon's certificates, four of

whom shall be public members, and four of whom shall be licentiates of a healing arts board other than the Board of Medical Quality Assurance

(c) The third district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates; two of whom shall be public members, and two of whom shall be licentiates of a healing arts board other than the Board of Medical Quality Assurance

(d) The fourth district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be licentiates of a healing arts board other than the Board of Medical Examiners

(e) The fifth district committee shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be licentiates of a healing arts board other than the Board of Medical Quality Assurance

A medical quality review committee may, pursuant to regulations adopted by the Division of Medical Quality, establish panels of five committee members consisting of three physician members, one public member, and one member who is a licentiate of a healing arts board other than the Board of Medical Quality Assurance for the purposes of hearing and deciding cases before a committee. Five members shall constitute a quorum in order for a panel of a committee to conduct business. It shall require an affirmative vote of a majority of those present at a meeting of a panel, such majority constituting at least a majority of a minimum quorum for a panel to decide any case, adopt any rule, pass any measure, or make any recommendation. Where a medical quality review committee meets as a whole, a majority of the membership of the committee shall constitute a quorum to conduct business. It shall require an affirmative vote of a majority of those present at a meeting of a committee, such majority constituting at least a majority of a minimum quorum for a committee, to decide any case, adopt any rule, pass any measure, or make any recommendation.

A finding or decision by a panel established under this section shall constitute a finding or decision by a committee.

2123 4 Each member of each committee, except the initial members, shall be appointed by the Governor for a term of four years.

Of those appointments of physicians and surgeons to be made by the Governor to medical quality review committees, for every three physicians to be so appointed, one shall be appointed from among not less than three persons to be nominated by professional medical societies, within the district, which represents the profession at large, one shall be appointed from the faculty of a clinical department of an approved medical school in the state. The faculty member need not reside in the district and shall be appointed from among not less than three nominations submitted to the Governor by the deans of the approved medical schools of the state. One member shall be appointed by the Governor from among not less than three nominations which are submitted to him by the Division of Medical Quality.

Each physician and surgeon appointee shall be licensed to practice in California.

Each member shall hold office until the appointment and qualification of his successor, or until six months have elapsed since the expiration of the term for which he was appointed, whichever first occurs.

The initial members of each committee shall classify themselves by lot, so that one of them shall serve a term which expires on September 1, 1978, two of them shall serve terms which expire on September 1, 1979, and two of them shall serve terms which expire on September 1, 1980."

Amendment 20

On page 35, strike out lines 30 to 40, inclusive; and on page 36, strike out lines 1 to 20, inclusive, and insert

"2123.8. Each committee or panel of a committee shall hear all matters assigned to it by the board, including, but not limited to, any contested case which is assigned to it by the Division of Medical Quality, and such other matters the committee finds upon investigation warrant action pursuant to Sections 2124 and 2361.

2123.9. Except as otherwise provided in this article, all hearings shall be conducted by a committee or panel of a committee in accordance with the provisions of Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code.

If a contested case is heard by a committee or panel of a committee, the hearing officer who presided at the hearing shall be present during the committee's consideration of the case and, if requested, shall assist and advise the committee.

2123.10. At the conclusion of any hearing which is conducted by a committee, the committee shall render its decision. A decision by a committee calling for the discipline of a licensee, or the suspension from practice of a licensee for 30 days or less, shall be final, except where the committee orders reconsideration pursuant to Section 2124.1. Where a committee renders a decision calling for suspension of a licensee for a period exceeding 30 days or revocation of a license, the decision shall constitute a recommendation to the Division of Medical Quality of the board. No suspension for a period exceeding 30 days or revocation of a license shall be carried out except upon order of the Division of Medical Quality following a hearing to be held by the Division of Medical Quality in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the Division of Medical Quality shall have the powers granted therein."

Amendment 21

On page 36, strike out lines 21 to 40, inclusive; and on page 37, strike out lines 1 to 23, inclusive, and insert

"2124. A medical quality review committee shall have the following authority and duties:

(a) To initiate reviews by the Division of Investigation of the department of the quality of medical care practices and certificate holders

(b) To initiate investigations by the Division of Investigation of the department of complaints made by members of the public, and other certificate holders, a health care facility or the board that a certificate holder has been guilty of unprofessional conduct and to report to the complainant within 90 days of the receipt of the complaint by the committee as to the committee's findings and decision. All investigations made pursuant to this section shall be commenced immediately and

completed within 90 days, with 30-day progress reports submitted to the Division of Medical Quality

(c) To investigate the standards of practice of any physician and surgeon certificate holder which circumstances have resulted in any judgment or settlement requiring the certificate holder or insurer of the certificate holder to pay any amount in damages in excess of three thousand dollars (\$3,000) with respect to any claim that injury or damage was proximately caused by the certificate holder's error, negligence, or omission

(d) Where a review or investigation carried out pursuant to subdivision (a), (b), or (c) of this section results in a likelihood or a finding of unprofessional conduct, to hold a hearing pursuant to Section 2123 8 to determine whether unprofessional conduct has occurred.

(e) Upon a finding of unprofessional conduct to take appropriate remedial or disciplinary action in relation to the certificate holder pursuant to Sections 2372, 2372.1, and 2372 5.

(f) Seek injunctions or restraining orders pursuant to Section 2436 2124 1. Any decision of the Division of Medical Quality or of a committee within the authority granted it by this article is final, except that the Division of Medical Quality or a committee may, on its own motion or on petition of any party, within the time and in the manner prescribed in Chapter 5 (commencing with Section 11500) of Part 1, Division 3, Title 2 of the Government Code, order a reconsideration of all or any part of a case.

2124 2. The Division of Medical Quality shall adopt, amend, or repeal, in accordance with the provisions of Chapter 4 5 (commencing with Section 11371), Part 1, Division 3, Title 2 of the Government Code, such regulations as may reasonably be necessary to enable medical quality review committees to carry into effect the provisions of this article."

Amendment 22

On page 37, lines 33 to 35, strike out "or from the California Arbitration Commission on medical injury compensation".

Amendment 23

On page 38, between lines 1 and 2, insert

"2124 8 Any physician and surgeon may communicate to the committee regarding any other physician and surgeon Such communications shall remain confidential and shall not be admissible before any hearing or before any court except that the committee may begin investigation on the basis of such communication and may use such communication to develop further information Such communication, except as provided in subdivision (c) of Section 800, shall be admissible in a defamation action where it is alleged that communication is false and made with malice."

Amendment 24

On page 38, line 32, strike out "board", and insert "Division of Medical Quality".

Amendment 25

On page 39, between lines 12 and 13, insert

"(g) When a certificate holder knows or reasonably believes that a patient has received injury due to a negligent act, or a negligent

omission to act, or an act of professional incompetence by another certificate holder and fails to report such instance or occurrence to the board.

SEC. 16 2. Section 2361.3 is added to the Business and Professions Code, to read:

2361.3 It shall be unprofessional conduct for a physician to refuse to treat a patient because the patient refuses to enter into an arbitration agreement. This section shall not apply to any physician employed by a medical corporation which has contracted to provide services for a health care service plan that has negotiated an arbitration agreement with its subscribers and enrollees.

SEC. 16 5. Section 2361.5 of the Business and Professions Code is amended to read:

2361.5 Clearly excessive prescribing or administering of drugs or treatment, use of diagnostic or therapeutic procedures, or use of diagnostic or treatment facilities which are detrimental to the patient, as determined by the customary practice and standards of the local community of licensees, is unprofessional conduct within the meaning of this chapter in addition to other matters defined as unprofessional conduct in this chapter "

Amendment 25.5

On page 39, lines 15 and 16, strike out " Examination and Recertification ".

Amendment 26

On page 39, between lines 21 and 22, insert " Each committee shall be staffed with at least one medical consultant, and sufficient competent investigators from the Division of Investigation of the department as are necessary to carry out the purposes of this article."

Amendment 26.5

On page 39, line 36, strike out " Review "

Amendment 26.7

On page 39, line 40, strike out " Review ".

Amendment 26.8

On page 41, line 8, strike out " Review ".

Amendment 26.9

On page 41, line 9, after " Allied ", insert " Health ".

Amendment 27

On page 41, line 39, strike out " medical injury tort claim ", and insert " an action for injury or damage against a physician and surgeon, dentist, registered nurse, dispensing optician, optometrist, registered physical therapist, podiatrist, licensed psychologist, osteopath, chiropractor, clinical laboratory bioanalyst, clinical laboratory technologist, veterinarian or a licensed hospital as the employer of any such person, based upon such person's alleged professional negligence or for rendering professional services without consent or for error or omission in such person's practice; nor shall the court award upon motion, expenses in a private enforcement action to qualified parties against accountable parties, ".

Amendment 28

On page 42, line 26, after the period, insert "If periodic payments are awarded to the plaintiff pursuant to Section 6677 of the Code of Civil Procedure, the court shall place a total monthly value on these payments based upon the projected life expectancy of the plaintiff and include this amount in computing the total award from which attorneys' fees are calculated under this section."

Amendment 29

On page 42, between lines 38 and 39, insert

"(d) For purposes of this section, the terms.

(1) "Private enforcement action" means a court action, or to an administrative hearing of either a quasi-judicial or quasi-legislative nature, initiated by a public or private party, in which the participation of a party, intervenor or amicus curiae has

(i) Enforced important public policy or vindicated an important right;

(ii) Conferred a significant benefit on a substantial segment of the public, or

(iii) Represented an interest not otherwise adequately represented because of the poverty, lack of organization or similar handicap of those persons affected by the interest, and which representation was necessary for a fair resolution of an issue in the action

(2) "Qualified party" means a private person, agency organization or group that initiated, defended, intervened in, or served as amicus curiae in, a private enforcement action to achieve a societal objective of the type listed in paragraph 1, whose participation has in significant measure achieved such objective, and whose participation was not justified by private economic interest

(3) "Expenses" means all funds reasonably expended and all liabilities reasonably incurred by a qualified party or its counsel in order to participate effectively in a private enforcement action, including reasonable fees for attorneys and expert witnesses, in making such expenses awards, the court shall give full consideration to the quality of the services provided, the contingent nature of expense awards, the complexity and novelty involved, the nature and extent of benefits conferred, and other appropriate equitable considerations, when no damages are awarded in a private enforcement action, the court shall determine the monetary value of the benefit conferred upon the public and then apply the scale set forth in this section

(4) "Accountable party" means any plaintiff, defendant, or intervenor, including the State of California or local public entity, and a department or agency, officer, employee or agent thereof, in a private enforcement action whose policies, practices, actions or plans would have precluded, diminished, or ignored a societal objective of the type listed in paragraph 1 but for the action of a qualified party

(e) The provisions of this section shall apply to any private enforcement action pending in the courts of this state or in courts of the United States and in which a final judgment has not been entered as of January 1, 1975, however, said provisions shall not apply to the extent that the award of expenses is expressly prohibited by statute or the amount thereof is fixed or otherwise expressly limited by statute.

SEC. 24.4. Section 43.8 of the Civil Code is amended to read:

43.8. In addition to the privilege afforded by Section 47, there shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any person on account of the communication of information in the possession of such person to any hospital, hospital medical staff, professional society, medical or dental school, or professional licensing board; or division, committee or panel of such licensing board when such communication is intended to aid in the evaluation of the qualifications, fitness or character of a practitioner of the healing arts and does not represent as true any matter not reasonably believed to be true."

Amendment 29.5

On page 43, strike out lines 1 to 40, inclusive; on page 44, strike out line 1; and in line 2, strike out "(b) Any", and insert "3333.1 (a) In the event the defendant so elects, any"

Amendment 29.7

On page 44, line 22, after the period, insert "Where the defendant elects to reduce benefits as provided in this section, the plaintiff may introduce evidence of insurance coverage of the defendant against which damages may be assessed in the action.

(b) Unless otherwise expressly provided by statute, a collateral source of indemnity described in subdivision (a) shall not be subrogated to the rights of the plaintiff against a defendant "

Amendment 29.8

On page 44, line 37, after the second "the", insert "last"

Amendment 30

On page 45, line 9, after "payment", insert "if the payment of such particular payments is not to be completed within three calendar years after the rendering of the court award".

Amendment 31

On page 45, line 11, strike out "the jury or".

Amendment 32

On page 45, lines 11 and 12, strike out ", in the event the trial is without a jury,".

Amendment 33

On page 46, between lines 36 and 37, insert

"SEC. 26.5 Section 1094.5 of the Code of Civil Procedure is amended to read:

1094.5. (a) Where the writ is issued for the purpose of inquiring into the validity of any final administrative order or decision made as the result of a proceeding in which by law a hearing is required to be given, evidence is required to be taken and discretion in the determination of facts is vested in the inferior tribunal, corporation, board or officer, the case shall be heard by the court sitting without a jury. All or part of the record of the proceedings before the inferior tribunal, corporation, board or officer may be filed with the petition, may be filed with respondent's points and authorities or may be ordered to be filed by the court. If the expense of preparing all or any

part of the record has been borne by the prevailing party, such expense shall be taxable as costs.

(b) The inquiry in such a case shall extend to the questions whether the respondent has proceeded without, or in excess of jurisdiction; whether there was a fair trial; and whether there was any prejudicial abuse of discretion. Abuse of discretion is established if the respondent has not proceeded in the manner required by law, the order or decision is not supported by the findings, or the findings are not supported by the evidence.

(c) Where it is claimed that the findings are not supported by the evidence, in cases in which the court is authorized by law to exercise its independent judgment on the evidence, abuse of discretion is established if the court determines that the findings are not supported by the weight of the evidence; and in all other cases abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record.

(d) Where the court finds that there is relevant evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before respondent, it may enter judgment as provided in subdivision (e) of this section remanding the case to be reconsidered in the light of such evidence, or, in cases in which the court is authorized by law to exercise its independent judgment on the evidence, the court may admit such evidence at the hearing on the writ without remanding the case.

(e) The court shall enter judgment either commanding respondent to set aside the order or decision, or denying the writ. Where the judgment commands that the order or decision be set aside, it may order the reconsideration of the case in the light of the court's opinion and judgment and may order respondent to take such further action as is specially enjoined upon it by law but the judgment shall not limit or control in any way the discretion legally vested in the respondent.

(f) *Except as provided in subdivision (g), the court in which proceedings under this section are instituted may stay the operation of the administrative order or decision pending the judgment of the court, or until the filing of a notice of appeal from the judgment or until the expiration of the time for filing such notice whichever occurs first, provided that no such stay shall be imposed or continued if the court is satisfied that it is against the public interest, provided that the application for the stay shall be accompanied by proof of service of a copy of the application on the respondent. Service shall be made in the manner provided by Title 5 (commencing with Section 405) of Part 2 or Chapter 5 (commencing with Section 1010) of Title 14 of Part 2. If an appeal is taken from a denial of the writ, the order or decision of the agency shall not be stayed except upon the order of the court to which such appeal is taken, provided that, in cases where a stay is in effect at the time of filing the notice of appeal, such stay shall be continued by operation of law for a period of twenty (20) days from the filing of such notice. If an appeal is taken from the granting of the writ, the order or decision of the agency is stayed pending the determination of the appeal unless the court to which such*

appeal is taken shall otherwise order. Where any final administrative order or decision is the subject of proceedings under this section, if the petition shall have been filed while the penalty imposed is in full force and effect the determination shall not be considered to have become moot in cases where the penalty imposed by the administrative agency has been completed or complied with during the pendency of such proceedings.

(g) *The court in which proceedings under this section are instituted may stay the operation of the administrative order or decision of any licensing board respecting any person licensed pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, except Chapter 11 (commencing with Section 4800) thereof, or licensed pursuant to the Osteopathic Initiative Act or the Chiropractic Initiative Act pending the judgment of the court, or until the filing of a notice of appeal from the judgment or until the expiration of the time for filing such notice whichever occurs first; provided that such stay shall not be imposed or continued unless the court is satisfied that the public interest will not suffer and the licensing board is unlikely to prevail ultimately on the merits; and provided further that the application for the stay shall be accompanied by proof of service of a copy of the application on the respondent. Service shall be made in the manner provided by Title 5 (commencing with Section 405) of Part 2 or Chapter 5 (commencing with Section 1010) of Title 14 of Part 2. If an appeal is taken from a denial of the writ, the order or decision of the agency shall not be stayed except upon the order of the court to which such appeal is taken; provided that, in cases where a stay is in effect at the time of filing the notice of appeal, such stay shall be continued by operation of law for a period of twenty (20) days from the filing of such notice. If an appeal is taken from the granting of the writ, the order or decision of the agency is stayed pending the determination of the appeal unless the court to which such appeal is taken shall otherwise order. Where any final administrative order or decision is the subject of proceedings under this section, if the petition shall have been filed while the penalty imposed is in full force and effect the determination shall not be considered to have become moot in cases where the penalty imposed by the administrative agency has been completed or complied with during the pendency of such proceedings."*

Bill ordered reprinted, and to be re-referred to the Committee on Judiciary.

JOINT RULE 62(a) WAIVED

Acting Speaker William Thomas was granted unanimous consent that Joint Rule 62(a) be waived for the purpose of setting Assembly Bill No. 1 for hearing in the Committee on Judiciary on June 12, 1975.

ADJOURNMENT

At 4 p.m., Acting Speaker William Thomas declared the Assembly adjourned until 1 p.m., Thursday, June 12, 1975.

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNAL

SEVENTEENTH LEGISLATIVE DAY

TWENTY-FIFTH CALENDAR DAY

IN ASSEMBLY

Assembly Chamber, Sacramento
Thursday, June 12, 1975

The Assembly met at 4.37 p m

Hon Leo T McCarthy, Speaker of the Assembly, presiding.

Chief Clerk James D Driscoll at the Desk.

Assistant Clerk Ray Monday reading

ROLL CALL

The roll was called, and the following answered to their names—76:

Altorre	Cline	Keene	Perino
Antonovich	Collier	Keyser	Priolo
Asnett	Craven	Knox	Ralph
Badham	Cullen	Laucaster	Robinson
Bate	Davis	Lauterman	Rosenthal
Bannai	Debieh	Lewis	Siegler
Berman	Dixon	Lockyer	Sieroty
Beverly	Duffy	Macdonald	Sutti
Boutwright	Egeland	Maily	Thomas, Vincent
Biggs	Fenton	McAlister	Thomas, William
Brown	Foran	McLemman	Thurman
Burke	Garnemendi	McVittie	Torres
Cairo	Guggan	Miller	Vasoucellos
Campbell	Greene	Molloy	Viceneia
Carpenter	Gualco	Montoya	Warren
Chacon	Hart	Mori	Wilson
Chappie	Hayden	Murphy	Wornum
Chel	Ingalls	Nimmo	Zberg
Chimbole	Kapiloff	Papan	Mr. Speaker

Quorum present.

PRAYER

Upon invitation of Speaker McCarthy, the following prayer was offered by the Hon Wadie P Deddeh, Member of the Assembly, 80th Assembly District:

Father, We live in a world of great confusion, despair and problems. We need, therefore, the strength to recognize our weaknesses and the vision to identify what needs to be done.

Give us, Lord, the wisdom to do that which is right, the will and the determination to stand for the truth even though it would be at times unpopular.

But above all, Father, help us serve with dignity and honor the good people of this great state.—AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker McCarthy, Mr. Antonovich then led the Assembly in the pledge of allegiance to the Flag.

READING OF THE JOURNAL DISPENSED WITH

By unanimous consent, reading of the Journal of the previous legislative day was dispensed with.

LEAVES OF ABSENCE FOR THE DAY

The following Members were granted leaves of absence for the day, because of illness:

Mr. Meade, on request of Speaker pro Tempore Papan

Mr. Nestande, on request of Speaker pro Tempore Papan

Mr. Tucker, on request of Speaker pro Tempore Papan.

COMMUNICATIONS

Assembly Chamber, June 12, 1975

Mr. Speaker Pursuant to your instructions, the Chief Clerk has examined.

Assembly Bill No. 1

Assembly Bill No. 8

Assembly Bill No. 10

And reports the same correctly engrossed.

JAMES D. DRISCOLL, Chief Clerk

Above bills re-referred to committee.

AUTHOR'S AMENDMENTS

Committee on Finance, Insurance, and Commerce

Assembly Chamber, June 12, 1975

Mr. Speaker The Chairman of your Committee on Finance, Insurance, and Commerce reports

Assembly Bill No. 12

With author's amendments with the recommendation Amend. and re-refer to the Committee on Finance, Insurance, and Commerce

McALISTER, Chairman

Assembly Bill No. 12—An act to add Article 7 (commencing with Section 11890) to the Insurance Code, relating to medical malpractice, and making an appropriation therefor

Bill read second time.

Consideration of Author's Amendments

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted:

Amendment 1

In line 2 of the title of the printed bill, after the first "to", insert "Chapter 4 of Part 3 of Division 2 of".

Amendment 2

On page 2, line 2, after the first "to", insert "Chapter 4 of Part 3 of Division 2 of".

Amendment 3

On page 2, strike out lines 12 to 17, inclusive.

Amendment 4

On page 2, line 18, strike out "(e)", and insert "(c)".

Amendment 5

On page 2, between lines 20 and 21, insert

"(d) "Board of directors" means the board of directors of the State Compensation Insurance Fund.

(e) "Licensee" means a person, corporation, facility, or institution licensed by, and operating within, this state to provide health care services as a physician, health care facility, dentist, registered nurse, licensed practical nurse, optometrist, podiatrist, chiropractor, physical therapist, or psychologist, or an officer, employee, or agent thereof acting in the course or scope of his employment.

(f) "Physician" means the holder of a physician's and surgeon's certificate

(g) "Health care facility" has the same meaning as that set forth in Section 1250 of the Health and Safety Code.

(h) "Health care" means any act, or treatment performed or furnished, or which should have been performed or furnished, by any licensee for, to, or on behalf of a patient during the patient's medical care, treatment or confinement

(i) "Medical malpractice insurance" means insurance coverage against loss, damage, or expense incident to a claim arising out of the death or injury of any person as the result of negligence or malpractice in rendering of professional services by a licensee which occurs during the period an insurance policy is in effect or against the expense of defending any suit for malpractice against a licensee.

(j) "Malpractice" means any tort or breach of contract on health care or professional services rendered, or which should have been rendered, by a licensee to a patient.

(k) "Manager" means the manager of the account appointed by the board of directors pursuant to Section 11891.1."

Amendment 6

On page 2, line 25, strike out ", and"; strike out line 26; and in line 27, strike out "malpractice against a licensee or medical corporation".

Amendment 7

On page 2, line 36, strike out "fund", and insert "account".

Amendment 8

On page 3, line 22, strike out "the fund", and insert "it".

Amendment 9

On page 3, line 25, strike out "ultimately".

Amendment 9.5

On page 3, line 25, after "self-supporting", insert "within five years after its creation".

Amendment 10

On page 3, line 30, strike out "fund", and insert "account".

Amendment 11

On page 3, line 31, strike out "year", and insert "years".

Amendment 12

On page 3, line 32, strike out "It if", and insert "If it".

Amendment 13

On page 3, line 33, strike out the first comma, and insert "and".

Amendment 14

On page 3, lines 33 and 34, strike out ", and a reasonable surplus for the catastrophe hazard", and insert "to cover future claims against licensees insured by the account".

Amendment 15

On page 3, line 36, strike out "or medical corporation".

Amendment 16

On page 4, line 2, strike out "of the fund".

Amendment 17

On page 4, line 5, after "insurer", insert "and subject to the same restrictions as any other insurer, except as otherwise provided by this article."

Amendment 18

On page 4, line 12, strike out "division", and insert "article".

Amendment 19

On page 4, line 20, strike out "of the fund".

Amendment 20

On page 4, line 25, strike out "fund", and insert "account".

Amendment 21

On page 4, between lines 30 and 31, insert

"The board of directors shall appoint a manager of the account and fix his salary. The manager shall manage and conduct the business and affairs of the account under the general direction and subject to the approval of the board of directors, and shall perform such other duties as the board of directors prescribe.

Before entering the duties of the office, the manager shall qualify by giving an official bond approved by the board of directors, in the sum of fifty thousand dollars (\$50,000) and by taking and subscribing to an official oath. The approval of the board shall be by written endorsement on the bond. The bond shall be filed in the office of the Secretary of State."

Amendment 22

On page 4, line 32, strike out "of the fund".

Amendment 23

On page 4, strike out lines 36 and 37, and insert
“(b) Offer annuities covering medical malpractice settlements or judgments in excess of twenty-five thousand dollars (\$25,000) against licensees insured by the account.”

Amendment 23.1

On page 4, line 40, strike out “or medical corporation”.

Amendment 24

On page 5, line 3, after “malpractice”, insert “settlement and”

Amendment 25

On page 5, line 4, strike out “or medical corporation”.

Amendment 26

On page 5, line 5, strike out “fund”, and insert “account”.

Amendment 27

On page 5, line 7, strike out “fund”, and insert “account”.

Amendment 28

On page 5, line 20, strike out “belong”, and insert “belonging”.

Amendment 29

On page 5, line 25, strike out “in the fund.”; strike out line 26; and on line 27, strike out “statements.”.

Amendment 30

On page 5, line 30, after “Account”, insert “No other moneys shall be withdrawn from the account unless such vouchers and itemized statements as may be required by the Controller are presented.”

Amendment 31

On page 6, line 6, strike out “16003”, and insert “925.6”.

Amendment 32

On page 6, line 22, strike out “, from time to”; and strike out lines 23 to 31, inclusive, and insert “direct the State Treasurer to invest all moneys in excess of current requirements in securities specified in Section 16430 of the Government Code. The board of directors may direct the State Treasurer to deposit such moneys in interest-bearing accounts in state or national banks having principal offices in this state. The board of directors may alternatively require the transfer of such moneys in the fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3, Part 2, Division 4, Title 2, of the Government Code.”

Amendment 33

On page 7, line 5, after “it”, insert “Such rates shall be fixed with due regard to the relative risk incurred by each class of licensee, as determined by the board”

Amendment 34

On page 7, strike out lines 6 and 7, and insert "number of malpractice settlements and judgments against a particular licensee insured."

Amendment 35

On page 7, line 10, after "at", insert "then".

Amendment 36

On page 7, line 12, strike out "The rates shall be"; strike out line 13; and in line 14, strike out "plan."

Amendment 37

On page 7, strike out lines 17 and 18, inclusive, and insert
 "(c) To produce reasonable reserves to cover future claims against licensees insured by the account.

11893 The board of directors shall make an annual report to the Legislature on the operations and condition of the account. The report shall include:

(a) The number and total amount of claims filed against licensees insured by the account.

(b) The number and total amount of judgments.

(c) The number and total amount of settlements reached out of court.

(d) The net amount collected by all claimants and the amount awarded in attorney's fees

(e) The premiums charged licensees

(f) The amount of dividends paid, if any.

All of these items shall be reported for the total of all licensees insured by the account and for each class of licensee."

Bill ordered reprinted, and to be re-referred to the Committee on Finance, Insurance, and Commerce

ANNOUNCEMENTS

Speaker McCarthy was granted unanimous consent that the Committee on Finance, Insurance, and Commerce be permitted to hold a special meeting on Wednesday, June 18, 1975, at 1.30 p.m. to hear Assembly Bill No. 34 and any holdover bills.

RECESS

At 4:38 p.m., Speaker McCarthy declared the Assembly recessed

REASSEMBLED

At 4.46 p.m., the Assembly reconvened

Hon. Leo T. McCarthy, Speaker of the Assembly, presiding.

AUTHOR'S AMENDMENTS**Committee on Judiciary**

Assembly Chamber, June 12, 1975

Mr. Speaker. The Chairman of your Committee on Judiciary reports

Assembly Bill No 1

Assembly Bill No 11

Assembly Bill No 9

Assembly Bill No 23

With author's amendments with the recommendation Amend, and re-refer to the Committee on Judiciary.

MILLER, Chairman

Assembly Bill No. 1—An act to amend Sections 125 5, 2100, 2101, 2119, 2361, 2362, 2364, 2372 5, 2436, and 2454 of, to add Sections 2100 5, 2100 6, 2100 7, 2100 8, 2101 5, 2101.6, 2122, 2361 3, 2372, and 2372.1 to, to add Article 11 (commencing with Section 800) to Chapter 1 of Division 2 of, to add Article 2.3 (commencing with Section 2123) and Article 2.4 (commencing with Section 2124 5) to Chapter 5 of Division 2 of, to add Article 8.5 (commencing with Section 6146) to Chapter 4 of Division 3 of, to repeal Section 2372 of, to repeal Article 11 (commencing with Section 800) of Chapter 1 of Division 2 of, and to repeal Article 2.3 (commencing with Section 2123) of Chapter 5 of Division 2 of, the Business and Professions Code; to amend Section 43 8 of, and to add Section 3333 1 to the Civil Code; to amend Sections 340 5 and 1094 5 of and to add Section 667 7 to, the Code of Civil Procedure; and to add Sections 11587 and 11588 to the Insurance Code, relating to health, and making an appropriation therefor.

Bill read second time

Consideration of Author's Amendments

The following author's amendments, pursuant to the Assembly Rules, were read and adopted:

Amendment 1

In line 14 of the title of the printed bill, as amended in Assembly June 11, 1975, strike out the second "and".

Amendment 2

In line 15 of the title, after the comma, insert "and to add Chapter 5 (commencing with Section 364) to Title 2 of Part 2 of,".

Amendment 3

On page 13, line 17, after "resignation", insert "or by voluntary action".

Amendment 4

On page 15, line 40, strike out "three", and insert "two".

Amendment 5

On page 16, line 2, strike out "two", and insert "three".

Amendment 6

On page 16, strike out lines 13 to 24, inclusive, and insert "Licensing shall by January 1, 1977, adopt and administer standards for continuing education of such certificate holders. The division shall require certificate holders to demonstrate satisfaction of the continuing education requirements at intervals of not less than four nor more than six years."

Amendment 7

On page 20, line 31, strike out "Examiners", and insert "Quality Assurance".

Amendment 7.5

On page 24, strike out lines 6 to 10, inclusive, and insert "Quality."

Amendment 8

On page 28, strike out lines 24 to 29, inclusive.

Amendment 9

On page 29, line 3, strike out "or therapeutic".

Amendment 10

On page 32, line 10, strike out " , nor shall", strike out lines 11 and 12; and in line 13, strike out "accountable parties,"

Amendment 11

On page 32, line 20, strike out "Ten", and insert "Fifteen"

Amendment 12

On page 32, strike out lines 26 to 40, inclusive; and on page 33, strike out lines 1 to 12, inclusive, and insert

(b) A contract for attorney fees for representation of a plaintiff in any action specified in subdivision (a), and which provides for compensation under a contingency fee arrangement, is void unless such contract is approved by the court in which the action is pending. If the court disapproves such a contract and a judgment is recovered, the plaintiff's attorney fees shall be fixed by the court rendering the judgment. Whenever a court fixes or approves attorney fees pursuant to this subdivision, it may direct the judgment debtor to pay such fee directly to the attorney.

If periodic payments are awarded to the plaintiff pursuant to Section 6677 of the Code of Civil Procedure, the court shall place a total monthly value on these payments based upon the projected life expectancy of the plaintiff and include this amount in computing the total award from which attorneys' fees are calculated under this section.

Amendment 13

On page 33, line 19, strike out " , the terms ", strike out lines 20 to 40, inclusive; and on page 34, strike out lines 1 to 31, inclusive, and insert " "recovered" means the net sum recovered after deducting any disbursements or costs incurred in connection with prosecution or settlement of the claim. Costs of medical care incurred by the plaintiff and the attorney's office-overhead costs or charges shall not be deductible disbursements or costs for such purpose "

Amendment 14

On page 36, strike out lines 10 to 34, inclusive, and insert

"3333 1. (a) In the event the defendant so elects, in an action for personal injury against a provider of health care services based upon professional negligence, he may introduce evidence of any amount payable as a benefit to the plaintiff as a result of the personal injury pursuant to the United States Social Security Act, any state or federal income disability or worker's compensation act, any health, sickness or income disability insurance, accident insurance that provides health benefits or income disability coverage, and any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or other health care services. Where the defendant elects to introduce such evidence, the plaintiff may introduce evidence of any amount which the plaintiff has paid or contributed to secure his right to any insurance benefits concerning which the defendant has introduced evidence and may also introduce evidence of insurance coverage of the defendant.

In determining the plaintiff's loss in any such action the jury, in a jury trial, or the court, in a court trial, may consider in mitigation thereof any substantial benefits introduced into evidence pursuant to this subdivision, but in so doing shall consider the extent to which the plaintiff has paid premiums to obtain any insurance benefits "

Amendment 16

On page 37, line 10, strike out "on or after the", strike out lines 11 to 16, inclusive, and insert "three years after the date of injury or one year after the plaintiff discovers, or through the use of reasonable diligence should have discovered, the injury, whichever occurs first. This time limitation shall be tolled for either of the following periods.

(1) Any period during which such person has failed to disclose any act, error, or omission upon which such action is based and which is known or through the use of reasonable diligence should have been known to him, but in no event for any period longer than five years after the date of the injury

(2) Any period during which the plaintiff has not discovered, or through the use of reasonable diligence would not have discovered, the presence of a foreign body in his person.

SEC 255 Chapter 5 (commencing with Section 364) is added to Title 2 of Part 2 of the Code of Civil Procedure, to read -

**CHAPTER 5 THE COMMENCEMENT OF ACTIONS
BASED UPON PROFESSIONAL NEGLIGENCE**

364 (a) No action based upon the defendant's professional negligence, including, but not limited to, the negligence of a health facility licensed under Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, may be commenced unless the defendant has been given 90 days' prior notice of the intention to commence the action

(b) No particular form of notice is required, but it shall notify the defendant of the legal basis of the claim and the type of loss sustained, including with specificity the nature of the injuries suffered

(c) The notice may be served in the manner prescribed in Chapter 5 (commencing with Section 1010) of Title 14 of Part 2

(d) If the notice is served within 90 days of the expiration of the applicable statute of limitations, the time for the commencement of the action shall be extended 90 days from the service of the notice

(e) The provisions of this section shall not be applicable with respect to any defendant whose name is unknown to the plaintiff at the time of filing the complaint and who is identified therein by a fictitious name, as provided in Section 474

365 Failure to comply with this chapter shall not invalidate any proceedings of any court of this state, nor shall it affect the jurisdiction of the court to render a judgment therein. However, failure to comply with such provisions by any attorney-at-law shall be grounds for professional discipline and the State Bar of California shall investigate and take appropriate action in any such cases brought to its attention "

Amendment 17

On page 37, lines 21 and 22, strike out “, or at the request of either party shall.”

Amendment 18

On page 37, line 33, after the period, insert “As a condition to authorizing periodic payments of future damages, the court shall require the judgment debtor to post security adequate to assure full payment of all such damages awarded by the judgment.”

Amendment 19

On page 37, line 39, strike out “The period of time may be”; strike out line 40, and on page 38, strike out lines 1 to 21, inclusive, and insert “Such payments shall only be subject to termination in the event of the death of the judgment creditor

(c) However, money damages awarded for loss of future earnings shall not be reduced or payments terminated by reason of the death of the judgment creditor, but shall be paid to persons to whom the judgment creditor owed a duty of support, as provided by law, immediately prior to his death. In such cases the court which rendered the original judgment, may, upon petition of any party in interest, modify the judgment to award and apportion the unpaid future damages in accordance with this subdivision.”

Amendment 20

On page 38, line 23, strike out “contingencies”, and insert “obligations”.

Amendment 20.1

On page 38, line 25, after “cease”, insert “and any security given pursuant to subdivision (a) shall revert to the judgment debtor”.

Amendment 21

On page 38, line 27, strike out “, but is not limited to,”.

Amendment 22

On page 43, line 40, strike out “review insurance”, and insert “renew insurance at prevailing rates”.

Bill ordered reprinted, and to be re-referred to the Committee on Judiciary.

Assembly Bill No. 9—An act to add Chapter 8 (commencing with Section 465) to Division 1 of the Business and Professions Code, to amend Section 3333 of, and to add Article 5 (commencing with Section 3361) to Chapter 2 of Title 2 of Part 1 of Division 4 of, the Civil Code and to add Section 667.5 to the Code of Civil Procedure, relating to medical malpractice, and making an appropriation therefor.

Bill read second time.

Consideration of Author's Amendments

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted:

Amendment 1

In line 2 of the title of the printed bill, strike out “to amend”; strike out lines 3 and 4, and in line 5, strike out “the Civil Code”.

Amendment 2

On page 5, strike out lines 31 to 40, inclusive; and on page 6, strike out line 1.

Amendment 3

On page 6, strike out lines 32 to 40; strike out pages 7 and 8; and on page 9, strike out lines 1 to 25, inclusive.

Amendment 4

On page 9, line 26, strike out "SEC. 6", and insert "SEC. 2".

Bill ordered reprinted, and to be re-referred to the Committee on Judiciary.

Assembly Bill No. 11—An act to amend Sections 11770, 11773, 11774, 11777, 11778, and 11779 of, to add Part 7 (commencing with Section 12700) to Division 2 of, and to add Division 4 6 (commencing with Section 14000) to, the Insurance Code, relating to medical malpractice insurance, and making an appropriation therefor

Bill read second time.

Consideration of Author's Amendments

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted

Amendment 1

In line 2 of the title of the printed bill, as amended in Assembly, June 10, 1975, after "add", insert "Section 1860 4 and"

Amendment 2

On page 3, strike out line 1, and insert

"SECTION 1 Section 1860 4 is added to the Insurance Code, to read

1860 4 (a) Notwithstanding any provision of this chapter to the contrary, in the event of any conflict between the provisions of either (1) Chapter 4 (commencing with Section 11770) of Part 3 of Division 2, (2) Part 7 (commencing with Section 12700) of Division 2, or (3) Division 4 6 (commencing with Section 14000), with other provisions of this code, the provisions of (1) Chapter 4 (commencing with Section 11770) of Part 3 of Division 2, (2) Part 7 (commencing with Section 12700) of Division 2 and, (3) Division 4 6 (commencing with Section 14000) shall prevail over the provisions of Chapter 9 (commencing with Section 1850) of Part 2 of Division 1

(b) The provisions of Section 1860 1 and 1860 2 of this code shall not be applicable to any provision of either (1) Chapter 4 (commencing with Section 11770) of Part 3 of Division 2, (2) Part 7 (commencing with Section 12700) of Division 2, or (3) Division 4 6 (commencing with Section 14000)

SEC. 1 5 Section 11770 of the Insurance Code is".

Amendment 3

On page 3, line 6, strike out "medical malpractice".

Amendment 4

On page 5, line 21, strike out "medical malpractice", and insert "other".

Amendment 5

On page 5, line 32, strike out "malpractice".

Amendment 6

On page 5, line 39, strike out "medical malpractice liability insurance", and insert "liability insurance related to any liability of any health care provider resulting from providing or omitting health care".

Amendment 7

On page 6, lines 12 and 13, strike out "medical malpractice".

Amendment 8

On page 6, line 13, strike out "medical malpractice".

Amendment 9

On page 6, line 14, after "insurance", insert "related to the providing or omission of health care".

Amendment 10

On page 6, line 25, strike out "malpractice".

Amendment 11

On page 6, line 25, after "insurance", insert "related to the provision or omission of health care".

Amendment 12

On page 6, between lines 31 and 32, insert "(d) "Medical liability" means any liability for the provision or omission of health care."

Amendment 13

On page 6, line 33, after "division", insert "and are in conflict with this part".

Amendment 14

On page 6, line 38, strike out "malpractice".

Amendment 15

On page 7, line 22, strike out "malpractice".

Amendment 16

On page 7, line 27, strike out "malpractice".

Amendment 17

On page 8, line 12, strike out "malpractice".

Amendment 18

On page 8, line 22, strike out "malpractice".

Amendment 19

On page 9, line 17, strike out "malpractice".

Amendment 20

On page 9, line 25, strike out "malpractice".

Amendment 21

On page 10, line 1, strike out "certificate of".

Amendment 22

On page 10, line 2, strike out "malpractice".

Amendment 23

On page 10, line 10, strike out "MALPRACTICE".

Amendment 24

On page 13, line 15, after "claim", insert "or controversy".

Amendment 25

On page 13, between lines 24 and 25, insert
"(x) "Installment" means payment twice a month."

Amendment 26

On page 14, line 24, strike out "insurance", and insert "the payment of compensation".

Amendment 27

On page 17, line 10, strike out "or", and insert a comma.

Amendment 28

On page 17, line 11, after "facility", insert ", or insurer".

Amendment 29

On page 19, line 19, strike out "widow", and insert "spouse".

Amendment 30

On page 20, line 16, after the period, insert "No attorney's fees shall be more than 10 percent of the total monetary compensation paid to the injured."

Amendment 31

On page 22, line 13, strike out "the loss," strike out lines 14 to 23, inclusive, and insert "any payment made by any federal or state agency."

Amendment 32

On page 22, line 28, strike out "compensation", and insert ", surgical, and hospital treatment".

Amendment 33

On page 22, line 32, strike out "damages", and insert "compensation".

Amendment 34

On page 23, line 7, strike out "within".

Amendment 35

On page 23, line 9, strike out "From", and insert "Five years from".

Amendment 36

On page 23, line 11, after "of", insert "additional".

Amendment 37

On page 23, lines 11 and 12, strike out "up to five years".

Amendment 38

On page 23, line 12, strike out "the presentation", and insert "a showing".

Amendment 39

On page 26, line 8, strike out "damages", and insert "compensation".

Amendment 40

On page 26, line 29, after "injury", insert "and the other required members of the hearing panel as required by this division".

Amendment 41

On page 31, between lines 3 and 4, insert
 "(j) All decisions of the hearing panel shall be by majority vote "

Amendment 42

On page 32, line 40, strike out "superior court", and insert "Judicial Council".

Bill ordered reprinted, and to be re-referred to the Committee on Judiciary.

Assembly Bill No. 23—An act to add Chapter 12 (commencing with Section 4950) to Division 2 of the Business and Professions Code, relating to medical malpractice reports.

Bill read second time.

Consideration of Author's Amendments

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted.

Amendment 1

On page 5 of the printed bill, as amended in Assembly June 4 1975, strike out lines 37 to 40, inclusive, on page 6, strike out lines 1 and 2 and insert

"4964 Any person who knowingly and willfully fails to submit a report as required by Sections 4958 and 4961 is subject to appropriate disciplinary action by the regulating board of the health profession involved in the incident or occurrence."

Amendment 2

On page 7, line 20, after "Procedure", insert " , or any other statute of limitation."

Bill ordered reprinted, and to be re-referred to the Committee on Judiciary.

ADJOURNMENT

At 11 45 p m , Speaker McCarthy declared the Assembly adjourned until 11 a m . Friday, June 13, 1975.

LEO T McARTHUR, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNALEIGHTEENTH LEGISLATIVE DAY
TWENTY-SIXTH CALENDAR DAY**IN ASSEMBLY**Assembly Chamber, Sacramento
Friday, June 13, 1975

The Assembly met at 2.47 p.m.

Hon. Leo T. McCarthy, Speaker of the Assembly, presiding.

Chief Clerk James D. Driscoll at the Desk.

Assistant Clerk Ray Monday reading.

ROLL CALL

The roll was called, and the following answered to their names—76.

Alatorre	Cline	Keene	Papan
Antonovich	Collier	Keysor	Perino
Arnett	Craven	Knox	Prilo
Badham	Cullen	Lancaster	Ralph
Bane	Davis	Lanterman	Robinson
Bannai	Deddeh	Lewis	Rosenthal
Berman	Dixon	Lockyer	Siegler
Beverly	Duffy	MacDonald	Sieroty
Boatwright	Egeland	Maddy	Suitt
Briggs	Fenton	McAhter	Thomas, Vincent
Brown	Foran	McLennan	Thomas, William
Burke	Garamendi	McVittie	Torres
Calvo	Goggin	Miller	Yaconcellos
Campbell	Greene	Mobley	Vicencia
Carpenter	Gualco	Montoya	Warren
Chacon	Hart	Mori	Wilson
Chappie	Hayden	Murphy	Wernum
Chel	Ingalls	Ne-tande	Z'berg
Chimbole	Kapiloff	Nimmo	Mr Speaker

Quorum present.

PRAYER

The following prayer was offered by the Chaplain, Father Leo McAllister:

Father, Help us to realize that You are the Father of all Your children, that You love none of them any less because of their location on this planet, or because of the pigmentation of their skin, or the language they speak. Help us to strive for the unity of all men; not just a political union, or a cultural union, but a union of love where we meet as brothers and sisters within the family of God.—AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker McCarthy, Mr. Chel then led the Assembly in the pledge of allegiance to the Flag

MOTION TO DISPENSE WITH READING OF THE JOURNAL

Further reading of the Journal of the previous legislative day was dispensed with on motion of Mr Nimmo, seconded by Mr MacDonald.

LEAVES OF ABSENCE FOR THE DAY

The following Members were granted leaves of absence for the day, because of illness.

Mr. Meade, on request of Speaker McCarthy
Mr Thurman, on request of Speaker McCarthy
Mr Tucker, on request of Speaker McCarthy.

COMMUNICATIONS

Assembly Chamber, June 13, 1975

Mr Speaker Pursuant to your instructions, the Chief Clerk has examined

Assembly Bill No 9

Assembly Bill No 23

Assembly Bill No 12

Assembly Bill No 1

And reports the same correctly engrossed.

JAMES D DRISCOLL, Chief Clerk

Above bills re-referred to committee.

AUTHOR'S AMENDMENTS**Committee on Health**

Assembly Chamber, June 13, 1975

Mr Speaker The Chairman of your Committee on Health reports.

Assembly Bill No 4

With author's amendments with the recommendation Amend. and re-refer to the Committee on Health.

KEENE, Chairman

Assembly Bill No. 4—An act to add Division 18 (commencing with Section 22000) to the Health and Safety Code, relating to health, and making an appropriation therefor.

Bill read second time.

Consideration of Author's Amendments

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted:

Amendment 1

On page 3, line 11 of the printed bill, after "homes", insert "and other long-term care facilities".

Amendment 2

On page 3, line 12, strike out "Medi-Care and Medi-Caid programs", and insert "programs established pursuant to Titles XVIII and XIX of the Social Security Act".

Amendment 3

On page 3, line 23, strike out "the Chiropractic Initiative Act,".

Amendment 4

On page 4, lines 3 and 4, strike out "and doctors of chiropractic".

Amendment 5

On page 4, line 5, strike out "all".

Amendment 6

On page 4, between lines 6 and 7, insert

"(e) To establish guidelines and procedures, whereby through education, clinical experience and certification examinations, a professional provider, holding a license under one category of licensure, may obtain a license to practice under another category."

Amendment 7

On page 4, lines 30 and 31, strike out "or the Chiropractic Initiative Act", and insert "and other health practitioners, including X-ray technicians and paramedics, but excluding dentists and veterinarians".

Amendment 8

On page 5, line 7, strike out "five", and insert "seven".

Amendment 9

On page 5, line 7, strike out "four", and insert "six".

Amendment 10

On page 5, line 9, strike out "Members", strike out lines 10 to 14, inclusive, and in line 15, strike out "bases", and insert

"The board shall be composed as follows

(a) Three of the members shall be physicians and surgeons licensed in California for at least five years but not longer than 15 years, one of whom shall be engaged in active practice in a surgical specialty, one of whom shall be engaged in active practice in a nonsurgical specialty, and one of whom shall be well qualified by reason of training and experience in biomedical research

(b) One of the members shall be a public health nurse licensed in California for at least five years but no longer than 15 years

(c) One of the members should be an active hospital administrator

(d) Two of the members shall be well qualified by reason of training and experience in clinical practice, health sciences education and biomedical research to review the findings of the office with respect to adequacy of practice for general and specialty care on inpatient and outpatient bases."

Amendment 11

On page 5, line 20, strike out the third "two", and insert "four".

Amendment 12

On page 5, line 24, after the period, insert "Members appointed to fill a vacancy on the board shall serve for the remainder of the unexpired term."

Amendment 13

On page 5, between lines 24 and 25, insert

"22030.1 No member of the board shall during his or her term of office engage in any other employment or shall acquire or have any financial interest in any entity engaged in the provision of health care.

22030.2 Five members of the board shall constitute a quorum for the transaction of business of the board and actions of the board shall be taken by a majority of the members present, except as otherwise provided in this division

22030.3 The board shall appoint a department secretary who shall be exempt from civil service. The department secretary shall perform such duties and manage the day-to-day affairs of the board, as directed by the board. Subject to the provisions of Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code, the board may employ hearing officers, technical experts, and such other employees as may be necessary, in the judgment of the board, for the conduct of the business of the board. Hearing officers employed by the board shall be attorneys at law admitted to practice before the courts of this state

22030.4. The board may adopt, and from time to time amend or repeal, rules and regulations for the administration of this division, in accordance with the provisions of Chapter 45 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code."

Amendments 14-15

On page 5, strike out lines 37 to 39, inclusive, and insert

"(d) The development of guidelines and procedures whereby, through continuing education and certification examinations, professional providers may obtain licensure under more than one licensure category

(e) The review of experimental work force projects and their incorporation into the appropriate guidelines as provided in this division"

Amendment 16

On page 6, line 2, after "providers", insert ", in consultation with the appropriate licensing boards and agencies".

Amendment 17

On page 6, line 21, after "office", insert "pursuant to Section 22032".

Amendment 18

On page 6, line 33, after the period, insert "The licensing boards shall implement and enforce such requirements."

Amendment 19

On page 6, line 34, after "service", insert "providers".

Amendment 20

On page 6, lines 37 and 38, strike out "basis of staffing, equipment, and facilities", and insert "capacity to provide an adequate treatment pattern".

Amendment 21

On page 7, line 7, strike out "qualifications", and insert "performance of functions".

Amendment 22

On page 7, line 12, strike out "Notwithstanding other", and strike out lines 13 to 18, inclusive

Amendment 23

On page 7, line 21, strike out "Medi-Care and Medi-Caid", and insert "Titles XVIII and XIX".

Amendment 24

On page 7, between lines 33 and 34, insert

"22039 Except as may otherwise be provided by law, each person or institution who, at the time this division becomes effective, holds a license as a professional or institutional provider, shall be deemed certified under the provisions of this division, to the full scope of practice authorized by this license, until such time as the provider is otherwise certified by this office

22040 Notwithstanding other provisions of law, no liability insurer admitted to transact liability underwriting in this state may provide such insurance to any applicant against loss due to a malpractice judgment for aspects of professional practice which are not certified by the office as within the competence of the applicant

22041 The office shall, within five years of the effective date of this act, certify each professional and institutional provider licensed by the state to the scope of practice which the office determines to be insurable by reason of the qualifications and experience of the applicant

22042 The office shall establish procedures for application for certification as to the scope of practice. Said procedures may include a written examination and shall make use, to the maximum extent practicable of the standards and guidelines developed by the various national specialty boards and the professional standard review organizations operating within the State of California

22042 1 The grounds for denying or limiting the scope of certification shall include, but not be limited to, all grounds for which licensure in that category may be denied, revoked, or suspended

22042 2 Compliance by a provider with the norms, standards, and criteria or other requirements of a professional standards review organization operating in an area in which said provider practices or

with any other requirements of Titles XVIII and XIX of the Social Security Act may be included in a review of a provider's practice.

22044 Every person holding a certificate issued herein shall have it registered in the office of the county clerk of every county in which he is practicing his profession. The fact and date of registration shall be endorsed on the certificate by the county clerk registering the same.

22045 Any determination that any professional or institutional provider of health care is engaging in practice which does not meet the standards of competency or is beyond the scope of practice to which said provider is certified shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code and the board shall have all the powers granted therein.

22046 Any person who has been denied a certificate shall be entitled, before such denial is final, to a hearing in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

22047. Any person aggrieved by a determination by the board with respect to certification or licensure may commence an action pursuant to Section 1094.5 of the Code of Civil Procedure in the superior court of the county in which the person resides within 90 days after the determination of the board becomes final.

22048 If the office determines as herein provided that any professional or institutional provider of health care is engaging in practice which does not meet the standards of competency adopted by the office, or is beyond the scope of practice certified by the office for that provider, it shall so inform the appropriate licensing board or agency, which shall, within 60 days of receipt of notification, appropriately restrict the scope of the provider's license. The determination of the office is conclusive and may not be modified, revoked, or redetermined by the licensing agency."

Amendment 25

On page 8, between lines 32 and 33, insert

"The Director of Health shall formulate a plan for the creation of a Medical Victims' Compensation Fund to pay medical costs of patients who have been damaged by providers who have exceeded the scope of their certification or licensure and who are therefore uninsurable, which plan shall be included in the report."

Bill ordered reprinted, and to be re-referred to the Committee on Health.

Hon. Julian C. Dixon Presiding

At 2.48 p m, Hon. Julian C. Dixon, 49th District, presiding.

REPORTS OF STANDING COMMITTEES

Committee on Judiciary

Assembly Chamber, June 13, 1975

Mr. Speaker: Your Committee on Judiciary reports.

Assembly Bill No. 1

With amendments, with the recommendation Amend, do pass, as amended, and be re-referred to the Committee on Ways and Means

MILLER, Chairman

Above bill ordered to second reading

REQUEST FOR UNANIMOUS CONSENT TO TAKE UP
ASSEMBLY BILL NO. 1

Mr. Keene was granted unanimous consent to take up Assembly Bill No. 1, without reference to file, for the purpose of reading the bill a second time and adopting the committee amendments at this time.

Second Reading of Assembly Bill No. 1 by Unanimous Consent

Assembly Bill No. 1—An act to amend Sections 125 5, 2100, 2101, 2119, 2361, 2362, 2364, 2372.5, 2436, and 2454 of, to add Sections 2100.5, 2100 6, 2100 7, 2100.8, 2101 5, 2101 6, 2122, 2361 3, 2372, and 2372.1 to, to add Article 11 (commencing with Section 800) to Chapter 1 of Division 2 of, to add Article 2 3 (commencing with Section 2123) and Article 2 4 (commencing with Section 2124 5) to Chapter 5 of Division 2 of, to add Article 8 5 (commencing with Section 6146) to Chapter 4 of Division 3 of, to repeal Section 2372 of, to repeal Article 11 (commencing with Section 800) of Chapter 1 of Division 2 of, and to repeal Article 2 3 (commencing with Section 2123) of Chapter 5 of Division 2 of, the Business and Professions Code, to amend Section 43 8 of, and to add Section 3333 1 to the Civil Code, to amend Sections 340 5 and 1094 5 of, to add Section 667 7 to, and to add Chapter 5 (commencing with Section 364) to Title 2 of Part 2 of, the Code of Civil Procedure, and to add Sections 11587 and 11588 to the Insurance Code, relating to health, and making an appropriation therefor

Bill read second time.

Consideration of Committee Amendments

The following amendments, proposed by the Committee on Judiciary, were read, and adopted:

Amendment 1

On page 9, line 6, of the printed bill, as amended in Assembly June 12, 1975, strike out "save for the", strike out lines 7 to 10, inclusive; and in line 11, strike out "disciplinary action,".

Amendment 2

On page 28, line 12, strike out "veterinarian".

Amendment 3

On page 33, strike out lines 4 to 10, inclusive.

Amendment 4

On page 33, line 26, after the comma, insert "the time for the commencement of action shall be".

Amendment 5

On page 36, line 19, strike out the first "paid"

Bill ordered reprinted, and to be re-referred to the Committee on Ways and Means.

ADJOURNMENT

At 2 49 p.m., Acting Speaker Dixon declared the Assembly adjourned until 9 a.m., Monday, June 16, 1975.

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNAL

NINETEENTH LEGISLATIVE DAY

TWENTY-NINTH CALENDAR DAY

IN ASSEMBLY

Assembly Chamber, Sacramento
Monday, June 16, 1975

The Assembly met at 12:58 p.m.

Hon. Leo T. McCarthy, Speaker of the Assembly, presiding.

Chief Clerk James D. Driscoll at the Desk.

Assistant Clerk Ray Monday reading.

ROLL CALL

The roll was called, and the following answered to their names—77:

Alatorre	Collier	Keyser	Perino
Antonovich	Craven	Knox	Priolo
Arnett	Cullen	Lanester	Ralph
Bailham	Davis	Lanterman	Robinson
Bane	Deddeh	Lewis	Rosenthal
Bannai	Dixon	Locker	Siegler
Berman	Duffy	MacDonald	Sieroty
Beverly	Egeland	Maddy	Smitt
Boatwright	Fenton	McAlister	Thomas, Vincent
Briggs	Foran	McLennan	Thomas, William
Brown	Garamendi	McVittie	Thurman
Burke	Goggin	Miller	Torres
Calo	Greene	Mobley	Vasconcellos
Campbell	Gualco	Montoya	Vicencia
Carpenter	Hart	Mori	Warren
Chacon	Hayden	Murphy	Wilson
Chappie	Ingalls	Nestande	Woznum
Chel	Kapiloff	Nimmo	Z'berg
Chimbole	Keene	Papan	Mr. Speaker
Cline			

Quorum present.

PRAYER

Upon invitation of Speaker McCarthy, the following prayer was offered by Father Val Fegundez, Pastor of St. Elisabeth's Catholic Church:

Go Before Us, O Lord, We ask You, in all our doings with Your gracious inspiration, and further us with Your continual help, that every prayer and work of ours may begin from You, and by You be duly ended.

Give Your Holy Spirit to these Your servants here assembled in the interests of our state government that in all their doings they may merit the high confidence which their constituents have rested in them, and that this state may be well and peaceably governed, and that we, the people, may enjoy the richest blessings which You prepared for all who love You.—**AMEN.**

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker McCarthy, Mr. Suitt then led the Assembly in the pledge of allegiance to the Flag.

MOTION TO DISPENSE WITH READING OF THE JOURNAL

Further reading of the Journal of the previous legislative day was dispensed with on motion of Mr. Calvo, seconded by Mr. Hayden.

LEAVES OF ABSENCE FOR THE DAY

The following Member was granted leave of absence for the day, because of illness.

Mr. Tucker, on request of Speaker McCarthy.

The following Member was granted leave of absence for the day, on personal business, and desired to waive his per diem.

Mr. Meade, on request of Speaker McCarthy.

COMMUNICATIONS

Assembly Chamber, June 16, 1975

Mr. Speaker Pursuant to your instructions, the Chief Clerk has examined:

Assembly Bill No. 1

Assembly Bill No. 4

Assembly Bill No. 11

And reports the same correctly engrossed.

JAMES D. DRISCOLL, Chief Clerk

Above bills re-referred to committee.

INTRODUCTION, FIRST READING, AND REFERENCE OF ASSEMBLY BILLS

The following bill was introduced, read the first time, and ordered held at the Desk.

Assembly Bill No. 35: By Assemblyman Thurman—An act to add Section 14110 4 to the Welfare and Institutions Code, relating to Medical, and declaring the urgency thereof, to take effect immediately.

REFERENCE OF BILLS TO COMMITTEE

Pursuant to the Assembly Rules, the following bill was referred to committee:

<i>Assembly Bill No.</i>	<i>Committee</i>
35-----	Health

ADJOURNMENT

At 12:59 p.m., Speaker McCarthy declared the Assembly adjourned until 1 p m , Tuesday, June 17, 1975.

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNAL

TWENTIETH LEGISLATIVE DAY

THIRTIETH CALENDAR DAY

IN ASSEMBLY

Assembly Chamber, Sacramento
 Tuesday, June 17, 1975

The Assembly met at 7:54 p m

Hon Leo T McCarthy, Speaker of the Assembly, presiding.

Chief Clerk James D Driscoll at the Desk.

Assistant Clerk Ray Monday reading.

ROLL CALL

The roll was called, and the following answered to their names—78:

Alatorre	Collier	Knox	Perino
Antonovich	Craven	Lancaster	Priolo
Arnett	Cullen	Lanterman	Ralph
Badham	Davis	Lewis	Robinson
Bane	Deedeh	Lockyer	Rosenthal
Bunnai	Dixon	MacDonald	Siegler
Berman	Duffy	Maddy	Sieroty
Bevely	Egeland	McAlister	Suitt
Boatwright	Fenton	McLennan	Thomas, Vincent
Briggs	Foran	McVittie	Thomas, William
Brown	Garamendi	Mende	Thurman
Buike	Goggin	Miller	Torres
Calvo	Greene	Mobley	Vacconcellos
Campbell	Gualco	Montoya	Vicencia
Carpenter	Hart	Mori	Warren
Chacon	Hayden	Murphy	Wilson
Chappie	Ingalls	Nestande	Wornum
Chel	Kapiloff	Nimmo	Z'berg
Chimbole	Keene	Papan	Mr Speaker
Clue	Keysor		

Quorum present.

PRAYER

Upon invitation of Speaker McCarthy, the following prayer was offered by Reverend John Folmer of Immaculate Conception Church:

God of the Universe, We pause a moment to consider that the history and the future of our world and of our lives rests in Your loving hands. Encourage us to see the goodness and the beauty of Your creation and of our existence as we ponder our problems and develop their solutions. Grant that whatever we may accomplish will reflect and foster the beauty, vitality, and goodness of Your world and enrich the human quality of our lives.—AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker McCarthy, Mr. Hayden then led the Assembly in the pledge of allegiance to the Flag.

MOTION TO DISPENSE WITH READING OF THE JOURNAL

Further reading of the Journal of the previous legislative day was dispensed with on motion of Mr. Calvo, seconded by Mr. Beverly.

LEAVES OF ABSENCE FOR THE DAY

The following Member was granted leave of absence for the day, because of illness:

Mr. Tucker, on request of Speaker McCarthy.

REPORTS OF STANDING COMMITTEES**Committee on Ways and Means**

Assembly Chamber, June 17, 1975

Mr. Speaker: Your Committee on Ways and Means reports.

Assembly Bill No. 1

With amendments with the recommendation: Amend, and do pass, as amended

FORAN, Chairman

Above bill ordered to second reading

JOINT RULE 62(a) WAIVED

Mr. Foran was granted unanimous consent that Joint Rule 62(a) be waived for the purpose of setting Assembly Bill No. 10 for hearing in the Committee on Ways and Means.

**REQUEST FOR UNANIMOUS CONSENT TO TAKE UP
ASSEMBLY BILL NO. 1**

Speaker McCarthy was granted unanimous consent to take up Assembly Bill No. 1, without reference to file, for the purpose of reading the bill a second time and adopting the committee amendments at this time.

Second Reading of Assembly Bill No. 1 by Unanimous Consent

Assembly Bill No. 1—An act to amend Sections 125.5, 2100, 2101, 2119, 2361, 2362, 2364, 2372.5, 2436, and 2454 of, to add Sections 2100.5, 2100.6, 2100.7, 2100.8, 2101.5, 2101.6, 2122, 2361.3, 2372, and 2372.1 to, to add Article 11 (commencing with Section 800) to Chapter 1 of Division 2 of, to add Article 2.3 (commencing with Section 2123) and Article 2.4 (commencing with Section 2124.5) to Chapter 5 of

Division 2 of, to add Article 8 5 (commencing with Section 6146) to Chapter 4 of Division 3 of, to repeal Section 2372 of, to repeal Article 11 (commencing with Section 800) of Chapter 1 of Division 2 of, and to repeal Article 2 3 (commencing with Section 2123) of Chapter 5 of Division 2 of, the Business and Professions Code; to amend Section 43 8 of, and to add Section 3333.1 to the Civil Code, to amend Sections 340.5 and 1094.5 of, to add Section 667.7 to, and to add Chapter 5 (commencing with Section 364) to Title 2 of Part 2 of, the Code of Civil Procedure; and to add Sections 11587 and 11588 to the Insurance Code, relating to health, and making an appropriation therefor.

Bill read second time.

Consideration of Committee Amendments

The following amendments, proposed by the Committee on Ways and Means, were read, and adopted:

Amendment 1

In line 2 of the title of the printed bill, as amended in Assembly June 13, 1975, strike out "and 2454", and insert "2454, and 2458".

Amendment 2

On page 27, between lines 7 and 8, insert "SEC. 24.1. Section 2458 of the Business and Professions Code is amended to read:

2458. The amount of fees and refunds prescribed by this chapter in connection with physicians and surgeons certificates, certificates to practice podiatry, certificates to practice midwifery, and certificates of drugless practitioners is that fixed by the following schedule:

(a) The fee for each applicant for a certificate by written examination, unless otherwise provided in this chapter, shall be fixed annually by the board at an amount not to exceed one hundred dollars (\$100) nor less than fifteen dollars (\$15). If the applicant's credentials are insufficient or if he does not desire to take the examination, the sum of ten dollars (\$10) shall be retained and the remainder of the fee is returnable on application.

(b) Each applicant for a certificate based upon a national board diplomate certificate, and each applicant for a reciprocity certificate, shall pay an application fee in the sum of ten dollars (\$10) at the time his application is filed. If the applicant qualifies for a certificate, he shall be notified and, in addition to the initial license fee, shall pay a fee which shall be fixed annually by the board at a sum not in excess of one hundred dollars (\$100) nor less than five dollars (\$5) for the issuance of the certificate.

(c) Each applicant for a certificate under Article 6 shall pay an application fee in the sum of ten dollars (\$10) at the time his application is filed. If the applicant qualifies for a certificate, he shall be notified and, in addition to the initial license fee, shall pay a fee which shall be fixed annually by the board at a sum not in excess of forty dollars (\$40) nor less than five dollars (\$5) for the issuance of the certificate.

(d) The renewal fee shall be fixed by the board at a sum not in excess of forty dollars (~~\$40~~) nor less than four dollars (~~\$4~~) is seventy-five dollars (\$75).

(e) The delinquency fee is ten dollars (\$10).

(f) The duplicate certificate fee is two dollars (\$2).

(g) The endorsement fee is five dollars (\$5).

(h) The fee for issuance of a duplicate certificate upon a change of name authorized by law of a person holding a certificate under this chapter shall be two dollars (\$2).

(i) The initial license fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the license is issued, except that if the license will expire less than one year after its issuance, then the initial license fee is an amount equal to fifty percent (50%) of the renewal fee in effect on the last regular renewal date before the date on which the license is issued."

Amendment 3

On page 38, strike out lines 17 to 22, inclusive, and insert

"SEC. 29. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act."

Bill ordered reprinted, and to be returned to the second reading file.

ADJOURNMENT

At 7:55 p.m., Speaker McCarthy declared the Assembly adjourned until 9 a.m., Wednesday, June 18, 1975.

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNAL

TWENTY-FIRST LEGISLATIVE DAY

THIRTY-FIRST CALENDAR DAY

IN ASSEMBLY

Assembly Chamber, Sacramento
 Wednesday, June 18, 1975

The Assembly met at 10:18 a.m.

Hon. Louis J. Papan, Speaker pro Tempore of the Assembly,
 presiding.

Chief Clerk James D. Driscoll at the Desk.

Assistant Clerk Ray Monday reading.

ROLL CALL

The roll was called, and the following answered to their names—78:

Alatorre	Collier	Knox	Periao
Antonovich	Craven	Lancaster	Priolo
Arnett	Cullen	Lanterman	Ralph
Badham	Davis	Lewis	Robinson
Bane	Deddeh	Lockyer	Rosenthal
Bannai	Dixon	MacDonald	Siegler
Berman	Duffy	Maddy	Sieroty
Beverly	Egelund	McAhter	Suitt
Boatwright	Fenton	McLennan	Thomas, Vincent
Briggs	Foran	McVittie	Thomas, William
Brown	Garamendi	Meade	Thurman
Burke	Goggin	Miller	Torres
Calvo	Greene	Mobley	Vasconcellos
Campbell	Gualco	Montoya	Vicencia
Carpenter	Hart	Morj	Warren
Chacon	Hayden	Murphy	Wilson
Chappie	Ingalls	Nestande	Wornum
Chel	Kaploff	Nimmo	Z'berg
Chimbole	Keene	Papan	Mr. Speaker
Cline	Keysor		

Quorum present.

REGULAR BUSINESS DISPENSED WITH

By unanimous consent, the regular order of business of the Assembly was dispensed with for this legislative day.

LEAVES OF ABSENCE FOR THE DAY

The following Member was granted leave of absence for the day, because of illness:

Mr. Tucker, on request of Speaker pro Tempore Papan.

COMMUNICATIONS

Assembly Chamber June 18, 1975

Mr. Speaker: Pursuant to your instructions, the Chief Clerk has examined
Assembly Bill No. 1

And reports the same correctly engrossed.

JAMES D. DRISCOLL, Chief Clerk

Above bill ordered returned to second reading file.

REPORTS OF STANDING COMMITTEES**Committee on Finance, Insurance, and Commerce**

Assembly Chamber, June 11, 1975

Mr. Speaker: Your Committee on Finance, Insurance, and Commerce reports
Assembly Bill No. 28

With amendments with the recommendation: Amend, do pass, as amended, and be re-referred to the Committee on Ways and Means.

McALISTER, Chairman

Above bill ordered to second reading.

CONSIDERATION OF DAILY FILE**ASSEMBLY BILLS RETURNED TO SECOND READING FILE
PURSUANT TO THE RULES**

Pursuant to the Assembly Rules, the following Assembly bill was this day on the second reading file:

Assembly Bill No. 1, ordered to third reading.

SPECIAL COMMITTEE MEETINGS

Speaker pro Tempore Papan was granted unanimous consent that the Committee on Finance, Insurance, and Commerce be permitted to hold a special meeting on June 19, 1975, upon adjournment of the Assembly session, in Room 2170, to consider all bills from the regular and second extraordinary session which are held over from the June 18 meeting of the committee.

Speaker pro Tempore Papan was granted unanimous consent that the Committee on Health be permitted to hold a special meeting on Monday, June 23, 1975, at 7:30 p.m., in Room 2133, to consider Assembly Bills Nos. 2, 4, 5, 6, 31 and 35.

RECESS

At 10:19 a.m., Speaker pro Tempore Papan declared the Assembly recessed.

REASSEMBLED

At 2:45 p.m., the Assembly reconvened

Hon. Louis J. Papan, Speaker pro Tempore of the Assembly, presiding.

AUTHOR'S AMENDMENTS**Committee on Health**

Assembly Chamber, June 18, 1975

Mr Speaker: The Chairman of your Committee on Health reports:

Assembly Bill No. 2

Assembly Bill No. 5

Assembly Bill No. 6

With author's amendments with the recommendation: Amend, and re-refer to the Committee on Health.

KEENE, Chairman

Assembly Bill No. 2—An act to amend Sections 441 18 and 1265.5 of, to add Part 5 (commencing with Section 1199) to Division 1 of, to repeal Section 442 11 of, and to repeal Part 15 (commencing with Section 437) of Division 1 of, the Health and Safety Code, relating to health services and facilities.

Bill read second time.

Consideration of Author's Amendments

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted:

Amendment 1

In line 1 of the title of the printed bill, as amended in Assembly May 23, 1975, after "act", insert "to repeal Article 4.5 (commencing with Section 2176) of Chapter 5 of Division 2 of the Business and Professions Code; and".

Amendment 2

In line 2 of the title, after "Part", insert "4 (commencing with Section 1185) and Part".

Amendment 3

In line 5 of the title, after "facilities", insert "and making an appropriation therefor".

Amendment 4

On page 44, after line 39, insert

"SEC 6 Article 4.5 (commencing with Section 2176) of Chapter 5 of Division 2 of the Business and Professions Code is repealed.

SEC 7. Part 4 (commencing with Section 1185) is added to Division 1 of the Health and Safety Code, to read:

PART 4 OFFICE OF HEALTH SERVICES DEVELOPMENT**CHAPTER 1 LEGISLATIVE INTENT**

1185 The Legislature finds that there is a maldistribution of health services in this state, which has a negative impact on the health and safety of a significant segment of the public.

It is the intent of the Legislature in enacting this part to establish a program of health services development in the State Department of Health to insure that health services are made available to persons who presently do not have access to them. Where feasible, such program shall utilize existing health resources and promote community-based health programs. However, where existing resources are not adequate and where it is not feasible to rapidly establish acceptable community-based programs, the Legislature finds and declares that it is the duty and obligation of the State Department of Health to arrange for or provide necessary health services in underserved areas.

CHAPTER 2 OFFICE OF HEALTH SERVICES DEVELOPMENT

1186. There is in the State Department of Health an Office of Health Services Development, which shall have responsibility for the following program elements of the state department:

- (a) California Health Service Corps.
- (b) California Rural Health Program.
- (c) Medical Student Loan Program

It shall be the responsibility of the office to provide or arrange for the provision of health services in underserved areas of the state.

CHAPTER 3. CALIFORNIA HEALTH SERVICES CORPS

1187. The director shall establish in the Office of Health Services Development a California Health Services Corps. The corps shall consist of competent providers of health services, including physicians and surgeons, nurse practitioners, nurses, physician's assistants, dentists, dental hygienists, dental assistants, and such other health personnel as the director finds necessary to meet the purposes of the program.

1187.1. The director shall utilize the authority to establish health manpower pilot projects pursuant to Article 18 (commencing with Section 42970) of Chapter 2 of Part 1 of this division for achieving the purposes of this part.

1187.2. Members of the California Health Services Corps shall be assigned to areas in California where health services are currently inadequate. Assignments may be made by the department to the following categories of health service programs:

- (a) Any nonprofit health facility or clinic
- (b) Any health provider or group of providers
- (c) Any state or county health program or facility.

However, the authority of any person to supervise any member of the corps shall be subject to approval by the director. The director may require, as a condition to the receipt of corps personnel, that any reimbursement received from patients by a facility or provider specified in subdivision (a) or (b) as a result of the services of a member or members of the corps assigned to it, which exceeds the salary paid by the facility or provided to a member of the corps, shall be transferred to the director for the purpose of funding the program authorized by this chapter.

1187.3 The director shall arrange for the provision of health services in underserved areas in California:

- (a) By utilizing to the extent feasible, existing health resources
- (b) By providing grants to nonprofit community-based health programs or by directly establishing offices and clinics.
- (c) By establishing or arranging for the establishment of transportation mechanisms which are appropriate to make health services accessible.

1187.4 The director shall, to the maximum extent feasible, integrate the health programs established pursuant to subdivisions (a) and (b) of Section 1187.3 with health sciences education programs and, specifically, with medical internships and residencies in family practice and other primary care specialties.

The director shall, in conjunction with the University of California, and the Secretary of the Health and Welfare Agency pursuant to the provisions of Article 8 (commencing with Section 31910) of Chapter 5 of Division 22 of the Education Code, establish medical internships and residencies as elements of California Health Service Corps and as elements of health programs receiving grants pursuant to Chapter 5 (commencing with Section 1189) of this part. It is the intent of the Legislature that the University of California cooperate fully with the director in decentralizing medical internship and residency programs and in integrating California Health Services Corps assignments into such programs.

1187.5 The director shall, to the extent feasible, coordinate efforts to provide health services through the California Health Services Corps with existing program resources, including migrant health program, Indian Health Program, the National Health Services Corps, and related programs in the state department.

1187.6 The director shall report to the Legislature and the Governor by January 1, 1977, concerning the extent to which physicians and other health personnel have volunteered to participate in the California Health Services Corps. In the event the director determines that the number of volunteers is inadequate to meet the needs of the program, he shall include in his report recommendations which consider the following alternative means of staffing the California Health Services Corps:

(a) Requiring participation in the corps for a specified period as a condition of licensure in a healing arts profession in California.

(b) Requiring participation in the corps as a condition of participating in an internship or residency program in California.

(c) Requiring participation in the corps as a condition of entering a state-supported medical school or other health sciences education program

(d) Requiring participation in the corps as a condition of licensure in a healing arts profession to a noncitizen.

(e) Conditioning participation in existing or new loan and scholarship programs upon participation in the corps

(f) Charging health sciences education students all or a portion of the actual state costs of training and requiring that such costs be repaid within a specified period or that the individual participate in the corps.

Such report shall also include an analysis of the extent to which the University of California has decentralized its graduate medical training programs and integrated them into the California Health Services Corps.

CHAPTER 4 LOANS FOR MEDICAL STUDENTS

1188 The director shall administer the program of loans for medical students, and shall adopt such rules and regulations as are reasonably necessary to carry out the provisions of this chapter.

1188.1 The amount of each loan shall not exceed two thousand dollars (\$2,000) for an academic year. In any event, no student shall receive more than eight thousand dollars (\$8,000) in loans.

1188.2. There shall be at least 35 loans available each year. Only students enrolled in the doctor of medicine program of a medical school approved by the board and located in California, or students enrolled in a program approved by the Board of Medical Examiners pursuant to Section 2193.75 of the Business and Professions Code for supervised clinical training, are eligible for participation in the loan program.

1188.3. No person shall be awarded a loan under this chapter unless he complies with all of the following conditions:

(a) He is a resident of California.

(b) He is enrolled in at least the second year of an approved doctor of medicine program in California, or is enrolled in a program of supervised clinical training established pursuant to Section 2193.75 of the Business and Professions Code, and has completed a resident course of medical instruction equivalent to that required in Section 2192 of the Business and Professions Code for applicants for a physicians and surgeons certificate in a medical school located outside the United States or Canada.

(c) He has complied with all the rules and regulations adopted pursuant to this chapter.

(d) He has agreed with the director to continue his education and training with the intention of practicing medicine in an area deficient in physician services.

(e) He has demonstrated his financial need according to written guidelines published by the director.

(f) He has agreed to participate in the California Health Service Corps for a period of two years

1188.4. Applications for loans shall be made to the state department, upon forms provided by it, at the times and in the manner prescribed by the rules and regulations adopted by the state department

1188.5. The state department shall award the loans to applicants which it determines have the greatest financial need for such funds. The state department shall not award any loan to an applicant if it determines that the applicant has adequate financial resources to support himself and his family.

1188.6. The loan shall be repayable in equal or graduated periodic installments, according to a schedule agreed upon by the state department and the borrower, over a 10-year period which shall begin three years after the student ceases to pursue a full-time course of study at a school of medicine, excluding from such 10-year period all periods, up to three years, of (1) active duty performed by the borrower as a member of the armed forces of the United States, or (2) nonmilitary public service performed by the borrower which the state department finds to be in the public interest.

1188.7. Loans made pursuant to this chapter shall not bear interest

1188.8. The liability to repay the unpaid balance of the loan shall be canceled upon the death of the borrower, or if the department determines that he has become permanently disabled and is unable to engage in substantial gainful activity.

1188.9. Where any person who has obtained one or more loans under this chapter engages in the practice of medicine in an area deficient in physician services after completion of his participation in the California Health Service Corps, 50 percent of the total of such loans which are unpaid as of the date that such practice begins shall be canceled thereafter for each year of such practice.

1188.10 The state department may assess a charge with respect to a loan made under this chapter for failure of the borrower to pay all or part of an installment when due and, in the case of a borrower who is entitled to a deferment under Section 1188.6 or cancellation of part or all of the loan under Section 1188.9 for any failure to file timely and satisfactory evidence of such entitlement. The amount of any such charge may not exceed two dollars (\$2) for each month by which such installment or evidence is late, except that there shall be no charge for the first month.

CHAPTER 5. HEALTH CARE FOR RURAL AND UNDERSERVED AREAS

1189. The state department, through the Office of Health Services Development, shall:

(a) Develop geographic and demographic criteria for classifying areas and shall designate specific areas throughout the state as medically underserved areas according to such criteria, and, within such areas, determine and specify the most significant health delivery problems

(b) Utilizing areas and problems designated pursuant to subdivision (a), receive proposals and make grants for funding projects to develop and test alternative health care delivery models. Consideration shall be given to those projects which make the greatest effort, utilizing clinical settings and regionalization, to develop and promote comprehensive health services in medically underserved areas. Proposals will be considered which address one or more of the following health issues:

(1) The health needs of migratory and other agricultural workers and their families, native American Indians, senior citizens, and identifiable groups within rural populations with particularly insufficient access to adequate levels of health care services due to geographical isolation or economic factors.

(2) Primary health care, including preventative health services and diagnostic, treatment, referral, and followup services for usual common, acute, and chronic illnesses and conditions.

(3) Comprehensive health care, including specialized physician services, inpatient and outpatient facilities, laboratory and X-ray services, home health services, and other specialized services.

(4) Emergency medical systems designed to meet the special problems of rural isolation

(5) Transportation appropriate to achieving the goal of making health care services available to residents of the medically underserved areas.

(6) Electronic communications technology to improve health care delivery and emergency health services in the designated medically underserved areas.

(7) Establishment of regional health systems, including linkage with both rural and urban health programs and facilities.

(8) Improvement of the quality of medical care and the administrative capabilities of agencies and management systems in rural and other medically underserved areas.

(9) Health education programs in the designated medically underserved areas, including health and nutrition education, and continuing education for health professionals.

(10) Promotion of rural nurse practitioner programs and other programs for training and placement of health professionals in the designated areas to respond to rural manpower shortages

(11) Improvement of the quality of mental health services in medically underserved areas.

(12) Integration of the California Health Services Corps into existing health care delivery systems.

No project shall exceed two years in duration and all projects shall be evaluated by the Office of Health Services Development with particular attention to the elements of access, cost, and quality of care, in the annual report to the Legislature, pursuant to subdivision (d) of this section. To the greatest degree possible, these projects shall strive to achieve self-sufficiency.

(c) Develop and submit, utilizing the Rural Health Plan for the State of California as developed by the state department, to the Legislature within one year after the effective date of this section a comprehensive state plan for improving the delivery of health care in the designated medically underserved areas of the state. For purposes of development of the plan, the Office of Health Services Development may initiate research studies and reports, as well as utilizing evaluations of rural demonstration projects. The development of the plan shall take into consideration the planning efforts of comprehensive health planning agencies, and the planning efforts of other public and private agencies.

(d) Develop and submit to the Legislature an annual report on the activities of the Office of Health Services Development, including demonstration project evaluation, ongoing efforts to improve effective delivery of health care services in the designated medically underserved areas of the state, research studies and reports, and any recommendations to the Legislature for further enabling legislation or funding for state or local programs necessary for the effective delivery of adequate levels of health care services in the designated medically underserved areas.

(e) Provide technical assistance and information to statewide and local, public, or private nonprofit agencies and organizations in establishing or conducting programs. Such assistance shall include, but need not be limited to, grantsmanship, consultation, planning, evaluation, and spokesmanship at the state and local levels for rural health needs.

(f) Serve as the focal point for coordination of state efforts in rural health in order to maximize effective use of scarce medical resources.

(g) Receive and allocate funds from any public or private source, including funds made available pursuant to Section 247d of Title 42 of the United States Code, for the planning, demonstration projects, and technical assistance purposes set forth in this section, or for the general administration of this chapter.

1189.1. The Advisory Committee on Health Care for Rural and Other Medically Underserved Areas is hereby established in the department. The committee shall be composed of seven members and shall advise and assist the Office of Health Services Development in the preparation of the health plan for rural and other medically underserved areas, the development of demonstration projects, and recommendations for legislative action.

Three members of the advisory committee shall be appointed by the Governor and shall be consumers selected from the following rural target populations: native Americans, senior citizens, low-income persons, Medi-Cal recipients, seasonal agricultural workers, and other minorities.

Two members of the advisory committee shall be appointed by the Senate Rules Committee and two members shall be appointed by the Speaker of the Assembly from the above specified target populations.

The members of the advisory committee shall elect a chairman from among the committee membership, who shall convene meetings as frequently as necessary to fulfill the duties of the committee.

The members of the advisory committee shall receive no compensation for their services, but shall be reimbursed for their actual, necessary traveling and other expenses incurred in the discharge of their duties.

429.7. In order to accomplish the purposes of subdivision (f) of Section 1189, the Task Force on Health Care in Medically Underserved Areas is hereby established.

(a) Members of the task force shall include: a representative of the Department of Education with responsibility for programs relating to the health and education of migrant children; a representative of the Department of Employment Development with responsibility in health manpower development; a representative of the United States Department of Health, Education, and Welfare with responsibility in rural health; a representative of the United States Department of Labor with responsibility in rural manpower development; and a representative of the University of California with experience in the development and staffing of rural health clinics. The following task force members shall be chosen by the director: a representative of a rural hospital, a representative of a rural community clinic and a representative of a central-city community clinic; a representative of a rural comprehensive health planning agency; a local health officer from a rural county; a physician in practice in a rural area and a physician in practice in a central-city area; a nurse in practice in a rural area and a nurse in practice in a central-city area; a nurse practitioner in practice in a rural area and a nurse practitioner in practice in a central-city area, and a representative of an organization responsible for rural Indian health.

(b) The Task Force on Medically Underserved Areas shall meet at least four times per year or more frequently at the call of the director.

(c) The responsibilities of the task force shall be directed toward coordinating to the greatest degree possible the rural health efforts of the organizations represented on the task force, for the purpose of maximizing the effective use of scarce medical resources. This shall include, but not be limited to, the sharing of information between represented organizations, the joint review process of grant requests received by represented organizations, and joint planning efforts, to the maximum extent possible, to prevent duplication and to promote integration of programs.

429.8. The adequate staffing for the Office of Health Services Development shall be provided through a review and reassignment of existing manpower within the State Department of Health. The department shall utilize to the maximum extent possible the existing rural health expertise within the department. To this end, the Farmworkers Unit of the State Department of Health shall be included in the Office of Health Services Development.

SEC. 8. The sum of three million dollars (\$3,000,000) is hereby appropriated from the General Fund to the State Department of Health for use by the department for purposes of this act."

Bill ordered reprinted, and to be re-referred to the Committee on Health.

Assembly Bill No. 5—An act to amend Sections 125 5, 2100, 2101, 2119, 2361, 2362, 2364, 2372 5, 2436, and 2454, of, to add Article 11 (commencing with Section 800) to Chapter 1 of Division 2 of, Sections 2100 5, 2100 6, 2100 7, 2100 8, 2101 5, 2122 to, Article 2 3 (commencing with Section 2123) to Chapter 5 of Division 2 of, and Sections 2372, and 2372 1 to, and to repeal Article 11 (commencing with Section 800) of Chapter 1 of Division 2 of, Article 2 3 (commencing with Section 2123) of Chapter 5 of Division 2 of, and Section 2372 of, the Business and Professions Code, relating to the healing arts, and making an appropriation therefor.

Bill read second time.

Consideration of Author's Amendments

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted:

Amendment 1

In the heading of the printed bill, after "Duffy", insert "and Select Committee on Medical Malpractice (Berman (Chairman), Deddeh, Greene, Hart, Keene, Maddy, and Warren)".

Amendment 1.5

In line 1 of the title, after "2361", insert " , 2361 5".

Amendment 2

In line 2 of the title, strike out "and 2454", and insert "2454, and 2458".

Amendment 3

In line 6 of the title, strike out "and 2372.1", and insert "2372.1, and 2458.5".

Amendment 4

In line 9 of the title, after "Code," insert "and to add Section 141325 to the Welfare and Institutions Code,".

Amendment 5

On page 4, line 21, after "settlement", insert "or arbitration award".

Amendment 6

On page 4, line 27, after "thereto", insert "or within 30 days after service of such arbitration award on the parties".

Amendment 7

On page 5, line 8, after "thereto", insert "or 30 days after service of such arbitration award on the parties".

Amendment 8

On page 5, line 15, after "agreement", insert "or service of such arbitration award on the parties".

Amendment 9

On page 7, strike out lines 38 to 40, inclusive; strike out page 8; and on page 9, strike out lines 1 to 5, inclusive

Amendment 10

On page 9, line 27, after "violation", insert "or", such petition may be filed by the Division of Medical Quality Review, the Division of Allied Professions, or a medical quality review committee".

Amendment 11

On page 12, line 7, after "Nursing" insert "One of the public members shall be a licensed attorney who shall meet the qualifications of Section 450 and who shall not maintain a client, employee, or customer relationship with any health provider or health facility which constitutes more than one-half percent of the employment or practice of that member of the board."

Amendment 12

On page 12, strike out line 39, and in line 40, strike out "majority of a minimum quorum within", and insert "the members of".

Amendment 13

On page 13, between lines 17 and 18, insert "The division may establish advisory committees to assist it in establishing a program to insure the continuing competency of physicians. In developing such recommendations the division shall consider the effect of mandatory programs on the ability of physicians and surgeons to provide service in underserved areas"

Amendment 14

On page 17, line 22, strike out "by the board, including, but".

Amendment 15

On page 17, strike out line 23.

Amendment 16

On page 17, line 26, strike out "and 2361", and insert ", 2361, and 2361.5".

Amendment 17

On page 18, strike out lines 10 to 14, inclusive, and insert "Quality."

Amendment 18

On page 18, line 24, strike out "and to report"; strike out lines 25 to 27, inclusive, and insert " Investigation shall be commenced within 15 days and completed within six months A progress report shall be issued to the complainant within 30 days of the initiation of the investigation. Once an investigation has been completed, the Attorney General shall file an accusation with a committee within 30 days A hearing shall be held by a committee or a panel of a committee within 30 days of the filing of an accusation A decision shall be rendered by a committee or panel of a committee within 30 days after commencement of hearing."

Amendment 19

On page 19, line 23, strike out "board", and insert "Division of Licensing and Examination".

Amendment 20

On page 19, between lines 28 and 29, insert "2124 4 Each medical quality review committee shall be staffed by at least one medical consultant and sufficient competent investigators from the Division of Investigation of the department as are necessary to carry out the purposes of this article The investigators so utilized shall be specially trained to investigate medical practices activities."

Amendment 21

On page 20, between lines 12 and 13, insert "SEC. 16 5 Section 2361 5 of the Business and Professions Code is amended to read:

2361 5 Clearly excessive prescribing or administering of drugs or treatment, use of diagnostic or therapeutic procedures, or use of diagnostic or treatment facilities which are detrimental to the patient, as determined by the customary practice and standards of the local community of licensees, is unprofessional conduct within the meaning of this chapter in addition to other matters defined as unprofessional conduct in this chapter.

Amendment 22

On page 20, line 15, strike out "Licensing and Education", and insert "Medical Quality Review".

Amendment 23

On page 20, strike out lines 21 to 25, inclusive.

Amendment 24

On page 23, line 6, after "chapter", insert "Renewal fees collected from physicians and surgeons pursuant to Section 2458 5(d) may be used for the administration of this act, including, but not limited to:

- (a) The administration of quality review programs.
- (b) The administration of continuing education programs.
- (c) Other purposes designated by the Legislature relating to medical education."

Amendment 25

On page 23, between lines 6 and 7, insert

"SEC 24 2 Section 2458 of the Business and Professions Code is amended to read:

2458. The amount of fees and refunds prescribed by this chapter in connection with ~~physicians and surgeons certificates~~, certificates to practice podiatry, certificates to practice midwifery, and certificates of drugless practitioners is that fixed by the following schedule:

(a) The fee for each applicant for a certificate by written examination, unless otherwise provided in this chapter, shall be fixed annually by the board at an amount not to exceed one hundred dollars (\$100) nor less than fifteen dollars (\$15) If the applicant's credentials are insufficient or if he does not desire to take the examination, the sum of ten dollars (\$10) shall be retained and the remainder of the fee is returnable on application.

(b) Each applicant for a certificate based upon a national board diplomate certificate, and each applicant for a reciprocity certificate, shall pay an application fee in the sum of ten dollars (\$10) at the time his application is filed If the applicant qualifies for a certificate, he shall be notified and, in addition to the initial license fee, shall pay a fee which shall be fixed annually by the board at a sum not in excess of one hundred dollars (\$100) nor less than five dollars (\$5) for the issuance of the certificate.

(c) Each applicant for a certificate under Article 6 shall pay an application fee in the sum of ten dollars (\$10) at the time his application is filed If the applicant qualifies for a certificate, he shall be notified and, in addition to the initial license fee, shall pay a fee which shall be fixed annually by the board at a sum not in excess of forty dollars (\$40) nor less than five dollars (\$5) for the issuance of the certificate.

(d) The renewal fee shall be fixed by the board at a sum not in excess of forty dollars (\$40) nor less than four dollars (\$4)

(e) The delinquency fee is ten dollars (\$10)

(f) The duplicate certificate fee is two dollars (\$2)

(g) The endorsement fee is five dollars (\$5)

(h) The fee for issuance of a duplicate certificate upon a change of name authorized by law of a person holding a certificate under this chapter shall be two dollars (\$2).

(i) The initial license fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the license is issued, except that if the license will expire less than one year after its issuance, then the initial license fee is an amount equal to fifty percent (50%) of the renewal fee in effect on the last regular renewal date before the date on which the license is issued

SEC 24 4 Section 2458 5 is added to the Business and Professions Code, to read:

2458 5 The amount of fees and refunds prescribed by this chapter in connection with physicians and surgeons certificates is that fixed by the following schedule.

(a) The fee for each applicant for a certificate by written examination, unless otherwise provided in this chapter, shall be fixed annually by the board at an amount not to exceed one hundred dollars (\$100)

nor less than fifteen dollars (\$15). If the applicant's credentials are insufficient or if he does not desire to take the examination, the sum of ten dollars (\$10) shall be retained and the remainder of the fee is returnable on application.

(b) Each applicant for a certificate based upon a national board diplomate certificate, and each applicant for a reciprocity certificate, shall pay an application fee in the sum of ten dollars (\$10) at the time his application is filed. If the applicant qualifies for a certificate, he shall be notified and, in addition to the initial license fee, shall pay a fee which shall be fixed annually by the board at a sum not in excess of one hundred dollars (\$100) nor less than five dollars (\$5) for the issuance of the certificate.

(c) Each applicant for a certificate under Article 6 shall pay an application fee in the sum of ten dollars (\$10) at the time his application is filed. If the applicant qualifies for a certificate, he shall be notified and, in addition to the initial license fee, shall pay a fee which shall be fixed annually by the board at a sum not in excess of forty dollars (\$40) nor less than five dollars (\$5) for the issuance of the certificate.

(d) The renewal fee shall be one hundred twenty-five dollars (\$125).

(e) The delinquency fee is ten dollars (\$10)

(f) The duplicate certificate fee is two dollars (\$2).

(g) The endorsement fee is five dollars (\$5).

(h) The fee for issuance of a duplicate certificate upon a change of name authorized by law of a person holding a certificate under this chapter shall be two dollars (\$2).

(i) The initial license fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the license is issued, except that if the license will expire less than one year after its issuance, then the initial license fee is an amount equal to fifty percent (50%) of the renewal fee in effect on the last regular renewal date before the date on which the license is issued.

SEC 24 6. Section 14132 5 is added to the Welfare and Institutions Code, to read:

14132 5. To the extent permitted by federal law, physicians and surgeons whose practices are located in underserved areas shall be reimbursed at a level 20 percent in excess of the average reimbursement provided for the same services for physicians and surgeons whose practices are not located in underserved areas.

For the purposes of this section, an underserved area is a county census tract division in which the ratio of physicians to population is less than 100/100,000 and which is designated by the director as lacking in needed physician's services."

Bill ordered reprinted, and to be re-referred to the Committee on Health.

Assembly Bill No. 6—An act relating to physicians and surgeons and making an appropriation therefor.

Bill read second time.

Consideration of Author's Amendments

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted:

Amendment 1

In line 1 of the title of the printed bill, after "act", insert "to amend Section 2361 of the Business and Professions Code and to add Chapter 4.65 (commencing with Section 31286) to Division 22 of the Education Code".

Amendment 2

On page 2, strike out lines 1 to 23, inclusive, and insert "SECTION 1. Section 2361 of the Business and Professions Code is amended to read:

2361. The board shall take action against any holder of a certificate, who is guilty of unprofessional conduct which has been brought to its attention, or whose certificate has been procured by fraud or misrepresentation or issued by mistake

Unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision or term of this chapter.

(b) Gross negligence.

(c) Incompetence.

(d) Gross immorality.

(e) The commission of any act involving moral turpitude, dishonesty, or corruption, whether the act is committed in the course of the individual's activities as a certificate holder, or otherwise, or whether the act is a felony or a misdemeanor.

(f) Any action or conduct which would have warranted the denial of the certificate.

(g) *Violation of the provisions of a contract made pursuant to Chapter 4.65 (commencing with Section 31286) of Division 22 of the Education Code.*

SEC. 2. Chapter 4.65 (commencing with Section 31286) is added to Division 22 of the Education Code, to read:

**CHAPTER 4.65 CALIFORNIA MEDICAL
EDUCATION FUND**

31286. After January 1, 1977, no funds shall be appropriated by the Legislature for the education of medical students at any institution within this state, and after January 1, 1977, no funds that have been appropriated by the Legislature for the education of medical students at any institution within this state, shall be expended by that institution for the education of medical students, unless that institution contracts, as provided in Section 31286.1, with each student who enrolls in a medical school of that institution to attend classes for the first time in the 1977-1978 academic year or any time thereafter.

31286.1. The contract required by Section 31286 shall require that the student shall, immediately after completion of the internship requirements of Section 2192 of the Business and Professions Code, or other equivalent requirements:

(a) Devote three years of medical practice to medically needy areas, as designated by the Director of the State Department of Health, and receive compensation for such medical practice in accordance with a procedure developed by the director as determined by the director; or

(b) Pay to the State Controller for deposit into the California Medical Education Special Fund a sum determined by the institution that the medical student attended in accordance with generally accepted accounting procedures to be equivalent to the amount of money expended by that institution from funds appropriated by the Legislature, for the education of that medical student in a medical school of that institution.

31286 2. The Attorney General shall bring appropriate actions in a superior court having jurisdiction to enforce the provisions of contracts required by Section 23490.

31286 3. There is hereby created in the State Treasury the California Medical Education Fund which is continuously appropriated to the University of California for expenditure for the education of medical students in accordance with the provisions of this chapter.

31286 4. The Director of the State Department of Health shall, prior to January 1, 1976, develop criteria for designating medically needy areas and designate areas that are medically needy areas in the state. In determining medically needy areas the director shall consider the number of physicians available in such areas and the ability of such areas to attract physicians. The director shall also, prior to January 1, 1976, develop programs for utilizing the medical services that will be made available by this chapter. The director shall also develop plans to provide for adequate compensation for such medical services, which may include payment of a salary or collection and retention of fees by the person furnishing medical services. Prior to January 1, 1976, it shall report such findings and plans to the Legislature.

31286 5. For the purposes of this chapter, funds made available pursuant to the provisions of Chapter 46 (commencing with Section 31285.1) shall not be included in determining the amount of funds allocated to a student's education, and may be expended by any institution notwithstanding any provision of this chapter."

Bill ordered reprinted, and to be re-referred to the Committee on Health.

ADJOURNMENT

At 2:46 p.m., Speaker pro Tempore Papan declared the Assembly adjourned until 1 p.m., Thursday, June 19, 1975.

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNAL

TWENTY-SECOND LEGISLATIVE DAY

THIRTY-SECOND CALENDAR DAY

IN ASSEMBLY

Assembly Chamber, Sacramento
Thursday, June 19, 1975,

The Assembly met at 1.36 p m.

Hon Leo T McCarthy, Speaker of the Assembly, presiding.

Chief Clerk James D Driscoll at the Desk.

Assistant Clerk Ray Monday reading.

ROLL CALL

The roll was called, and the following answered to their names—75:

Alatorre	Collier	Lancaster	Priola
Antonovich	Craven	Lanterman	Ralph
Arnett	Cullen	Lewis	Robinson
Bane	Davis	Lockyer	Rosenthal
Bannai	Deddeh	MacDonald	Siegler
Berman	Dixon	Maddy	Sieroty
Beverly	Duffy	McAlister	Sutt
Boatwright	Egeland	McLennan	Thomas, Vincent
Briggs	Fenton	McVittie	Thomas, William
Brown	Foran	Meade	Thurman
Burke	Garamendi	Miller	Torres
Calvo	Goggin	Mobley	Vasconcellos
Campbell	Greene	Montoya	Vicencia
Carpenter	Gualco	Mori	Warren
Chacon	Hait	Murphy	Wilson
Chappie	Ingalls	Nestande	Wornum
Chel	Keene	Nimmo	Z'berg
Chimbele	Keyser	Papan	Mr Speaker
Cline	Knox	Perino	

Quorum present.

PRAYER

Upon invitation of Speaker McCarthy, the following prayer was offered by Honorable Ken MacDonald, Member, 36th Assembly District:

Our Heavenly Father, We thank Thee for this opportunity to serve the people of California. We welcome the presence of the Boys State leaders meeting with us here today. Guide us to have the wisdom to meet the serious challenges of our state and nation. Lord, help us to do those things that are most pleasing in Thy Sight.—AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker McCarthy, Mr. Calvo then led the Assembly in the pledge of allegiance to the Flag.

READING OF THE JOURNAL DISPENSED WITH

By unanimous consent, reading of the Journal of the previous legislative day was dispensed with.

LEAVES OF ABSENCE FOR THE DAY

The following Members were granted leaves of absence for the day, because of illness:

Mr Hayden, on request of Speaker McCarthy.

Mr Tucker, on request of Speaker McCarthy.

The following Member was granted leave of absence for the day, on legislative business, and desired to waive his per diem:

Mr Badham, on request of Speaker McCarthy.

The following Member was granted leave of absence for the day, on personal business, and desired to waive his per diem:

Mr. Kapiloff, on request of Speaker McCarthy.

NOTE For letter explaining the absence of Mr Badham on this day on legislative business pursuant to the Assembly Rules, see Assembly Daily Journal for the Regular Session for this day.

COMMUNICATIONS

Assembly Chamber, June 19, 1975

Mr. Speaker: Pursuant to your instructions, the Chief Clerk has examined:

Assembly Bill No 2

Assembly Bill No. 5

Assembly Bill No 6

And reports the same correctly engrossed.

JAMES D. DRISCOLL, Chief Clerk

Above bills re-referred to committee

CONSIDERATION OF DAILY FILE**SECOND READING OF ASSEMBLY BILLS**

Assembly Bill No. 28—An act to add and repeal Section 11587 to the Insurance Code, relating to malpractice insurance, and declaring the urgency thereof, to take effect immediately

Bill read second time.

Consideration of Committee Amendments

The following amendments, proposed by the Committee on Finance, Insurance, and Commerce, were read, and adopted:

Amendment 1

In line 1 of the title of the printed bill, strike out the second "to", and insert "of".

Amendment 2

On page 3, line 7, after "data", insert "which may contain information obtained from other insurers".

Amendment 3

On page 3, line 12, strike out "rate increase petition", and insert "petition for rate increase or to withdraw from underwriting".

Amendment 4

On page 3, line 16, after "increase", insert "or withdrawal from underwriting".

Amendment 5

On page 3, lines 17 and 18, strike out "Chairman from", and insert "the Chairman of the".

Amendment 6

On page 3, line 19, after "and", insert "the".

Amendment 7

On page 3, lines 22 and 23, strike out "by the insured".

Amendment 8

On page 3, lines 26 and 27, strike out "of such particularity which set forth", and insert "setting forth with particularity".

Amendment 9

On page 3, line 38, strike out "insured's", and insert "insureds".

Amendment 10

On page 3, line 40, strike out "insurer."; and on page 4, line 1, strike out "The", and insert "insurer except that the".

Amendment 11

On page 4, line 9, after "increase", insert "or to withdraw from underwriting".

Amendment 12

On page 4, line 11, after "commissioner", insert "in opposition thereto or".

Amendment 13

On page 4, line 15, strike out the first comma; and after "extent", insert a comma.

Amendment 14

On page 4, line 17, strike out "request for a rate decrease", and insert "petition".

Amendment 15

On page 4, strike out lines 19 and 20, and insert "commissioner all verified financial records relevant to the proceedings".

Amendment 16

On page 4, line 30, strike out "of insurance of new policies", and insert "of new policies of insurance".

Amendment 17

On page 4, line 33, after "Division 1," insert "and specifically Section 1860.2,".

Amendment 18

On page 5, line 5, after "such", insert "date".

Bill ordered reprinted, and to be re-referred to the Committee on Ways and Means.

THIRD READING OF ASSEMBLY BILLS

Assembly Bill No. 1—An act to amend Sections 125 5, 2100, 2101, 2119, 2361, 2362, 2364, 2372 5, 2436, 2454, and 2458 of, to add Sections 2100.5, 2100.6, 2100 7, 2100 8, 2101 5, 2101.6, 2122, 2361.3, 2372, and 2372.1 to, to add Article 11 (commencing with Section 800) to Chapter 1 of Division 2 of, to add Article 2 3 (commencing with Section 2123) and Article 2 4 (commencing with Section 2124 5) to Chapter 5 of Division 2 of, to add Article 8.5 (commencing with Section 6146) to Chapter 4 of Division 3 of, to repeal Section 2372 of, to repeal Article 11 (commencing with Section 800) of Chapter 1 of Division 2 of, and to repeal Article 2 3 (commencing with Section 2123) of Chapter 5 of Division 2 of, the Business and Professions Code; to amend Section 43 8 of, and to add Section 3333 1 to the Civil Code; to amend Sections 340 5 and 1094.5 of, to add Section 667 7 to, and to add Chapter 5 (commencing with Section 364) to Title 2 of Part 2 of, the Code of Civil Procedure; and to add Sections 11587 and 11588 to the Insurance Code, relating to health, and making an appropriation therefor.

Bill read third time.

Speaker pro Tempore Presiding

At 2 05 p m., Hon Louis J Papan, 19th District, presiding.

Request for Unanimous Consent

Mr. Keene was granted unanimous consent that Mr. Ken Wagstaff, Consultant to the Assembly Health Committee, be permitted to sit at his desk during consideration of Assembly Bill No. 1.

Motion to Grant Additional Time for Debate

Mr. Collier moved that Mr. McLennan be granted five minutes additional time for debate.

Mr. Murphy seconded the motion.

Motion carried.

The question being on the passage of Assembly Bill No. 1.

Bill passed by the following vote:

AYES—67

Antonovich	Collier	Keysor	Friolo
Arnett	Craven	Knox	Ralph
Bane	Cullen	Lancaster	Robinson
Bannai	Davis	Lanterman	Rosenthal
Berman	Deddeh	Lockyer	Siegler
Beverly	Dixon	MacDonald	Sieroty
Boatwright	Duffy	McAlister	Sutt
Briggs	Egeland	McLennan	Thomas, Vincent
Burke	Fenton	McVittie	Thomas, Wilham
Calvo	Foran	Miller	Thurman
Campbell	Garamendi	Mobley	Vasconcellos
Carpenter	Goggin	Montoya	Warren
Chacon	Greene	Mori	Wilson
Chappe	Gualco	Murphy	Wornum
Chel	Hart	Nimmo	Z'berg
Chimbole	Ingalls	Papan	Mr. Speaker
Clune	Keene	Perino	

NOES—8

Alatorre	Lewis	Meade	Torres
Brown	Maddy	Nestande	Vicencia

Speaker Presiding

At 3:31 p m., Hon Leo. T. McCarthy, 18th District, presiding.

Motion to Reconsider Assembly Bill No. 1 on Next Legislative Day

Mr Alatorre moved to reconsider on the next legislative day the vote whereby Assembly Bill No 1 was this day passed.

Motion to Take Up Motion to Reconsider Assembly Bill No. 1

Mr Collier moved that the Rules be temporarily suspended for the purpose of taking up the motion to reconsider the vote on Assembly Bill No. 1 on this day.

The roll was called.

Call of the Assembly

Pending the announcement of the vote, Mr Collier moved a call of the Assembly

Motion carried Time, 3 34 p m.

The Speaker directed the Sergeant at Arms to close the doors, and to bring in the absent Members

**PROCEEDINGS UNDER CALL OF THE ASSEMBLY
BY UNANIMOUS CONSENT****TEMPORARY SUSPENSION OF ASSEMBLY RULES**

Mr. Berman was granted unanimous consent that the Assembly Rules be temporarily suspended for the purpose of placing a call of the Assembly on any matter before the House, and to permit the Assembly to conduct further business while under a call of the House.

RECESS

By unanimous consent, at 3:35 p m , Speaker McCarthy declared the Assembly recessed.

REASSEMBLED

At 4:46 p m , the Assembly reconvened.

Hon Leo T McCarthy, Speaker of the Assembly, presiding.

**CALL OF THE ASSEMBLY DISPENSED WITH ON MOTION TO TAKE
UP MOTION TO RECONSIDER ASSEMBLY BILL NO. 1 ON THIS DAY**

At 4:47 p m , on motion of Mr Collier, and in the absence of any objection, further proceedings under the call of the Assembly were dispensed with.

The names of the absentees were called, and the motion to temporarily suspend the rules to take up the motion to reconsider Assembly Bill No 1 on this day defeated by the following vote:

AYES—9

Berman	Chne	Kessor	Perino
Boatwright	Foran	MacDonald	Wornum
Chel			

NOES—13

Arnett	Brown	Fenton	Thomas Vincent
Bane	Burke	Lewis	Thomas, William
Beverly	Campbell	Meade	Vicencia
Briggs			

Assembly Bill No. 1 ordered to the unfinished business file.

VOTE CHANGES

The following Members were granted unanimous consent to record their votes:

On Assembly Bill No. 1: Messrs Greene and Murphy, "Aye".

ADJOURNMENT

At 4:47 p.m., Speaker McCarthy declared the Assembly adjourned until 12:30 p.m., Friday, June 20, 1975.

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNAL

TWENTY-THIRD LEGISLATIVE DAY

THIRTY-THIRD CALENDAR DAY

IN ASSEMBLY

Assembly Chamber, Sacramento
Friday, June 20, 1975

The Assembly met at 12:30 p m
Hon. Leo T. McCarthy, Speaker of the Assembly, presiding.
Chief Clerk James D. Driscoll at the Desk.
Assistant Clerk Ray Monday reading.

ROLL CALL

The roll was called.

Quorum Call of the Assembly

Mr. Nimmo moved a quorum call of the Assembly.

Mr. Hayden seconded the motion.

Motion carried Time, 12:35 p m.

The Speaker directed the Sergeant at Arms to close the doors, and to bring in the absent Members.

Speaker pro Tempore Presiding

At 12:50 p m., Hon. Louis J. Papan, 19th District, presiding.

**PROCEEDINGS UNDER CALL OF THE ASSEMBLY
BY UNANIMOUS CONSENT
QUORUM PRESENT**

At 12:50 p m., Speaker pro Tempore Papan declared a quorum of the Assembly present.

The roll call was completed, and the following answered to their names—75:

Alatorre	Collier	Lancaster	Priolo
Antonovich	Craven	Lanterman	Ralph
Arnett	Cullea	Lewis	Robinson
Badham	Davis	Lockyer	Rosenthal
Bane	Deddeb	MacDonald	Siegler
Bannai	Dixon	Maddy	Sieroty
Berman	Duffy	McAlister	Stutt
Beverly	Egeland	McLennan	Thomas, Vincent
Boatwright	Fenton	McVittie	Thomas, William
Briggs	Foran	Meade	Thurman
Brown	Garamendi	Miller	Torres
Burke	Greene	Mobley	Vasconcellos
Calvo	Gualco	Montoya	Vicencia
Carpenter	Hart	Mori	Warren
Chacon	Hayden	Murphy	Wilson
Chappie	Ingalls	Nestande	Wornum
Chel	Kaploff	Nimmo	Z'berg
Chimbole	Keene	Papan	Mr. Speaker
Cline	Keyser	Peimo	

PRAYER

Upon invitation of Speaker McCarthy, the following prayer was offered by Honorable Robert P. Nimmo, Member, 29th District:

Give Us Today, Father, The grace of friendliness that we may share the joys and troubles of those with whom we work.

Give us grace to speak the right words when we must speak, the grace to be silent when we need not speak, the grace to listen when someone else speaks

Help us to know each other better so that, in new friendship, we will find new understanding and new strength—AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker pro Tempore Papan, Mr Bannai then led the Assembly in the pledge of allegiance to the Flag

READING OF THE JOURNAL DISPENSED WITH

By unanimous consent, reading of the Journal of the previous legislative day was dispensed with.

LEAVES OF ABSENCE FOR THE DAY

The following Members were granted leaves of absence for the day, because of illness:

Mr Campbell, on request of Speaker McCarthy.

Mr Tucker, on request of Speaker McCarthy.

The following Member was granted leave of absence for the day, on legislative business, and desired to waive his per diem:

Mr Knox, on request of Speaker McCarthy

The following Member was granted leave of absence for the day, on personal business, and desired to waive his per diem:

Mr Goggin, on request of Speaker McCarthy.

NOTE For letter explaining the absence of Mr Knox on this day on legislative business pursuant to the Assembly Rules, see Assembly Daily Journal for the Regular Session for this day.

COMMUNICATIONS

Assembly Chamber, June 20, 1975

Mr. Speaker Pursuant to your instructions, the Chief Clerk has examined.

Assembly Bill No. 28

And reports the same correctly engrossed.

JAMES D. DRISCOLL, Chief Clerk

Above bill re-referred to committee.

REPORTS OF STANDING COMMITTEES

Committee on Finance, Insurance, and Commerce

Assembly Chamber, June 18, 1975

Mr. Speaker: Your Committee on Finance, Insurance, and Commerce reports:

Assembly Bill No. 12

With amendments with the recommendation: Amend, do pass, as amended, and be re-referred to the Committee on Ways and Means.

McALISTER, Chairman

Above bill ordered to second reading.

AUTHOR'S AMENDMENTS

Committee on Health

Assembly Chamber, June 20, 1975

Mr. Speaker: The Chairman of your Committee on Health reports.

Assembly Bill No. 4

With author's amendments with the recommendation: Amend, and re-refer to the Committee on Health.

KEENE, Chairman

Assembly Bill No. 4—An act to add Division 18 (commencing with Section 22000) to the Health and Safety Code, relating to health, and making an appropriation therefor.

Bill read second time.

Consideration of Author's Amendments

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted:

Amendment 1

On page 3, line 27, of the printed bill, as amended in Assembly June 13, 1975, strike out the comma, and insert "or".

Amendment 2

On page 3, lines 28 and 29, strike out ", the Welfare and Institutions Code, and the Health and Safety Code".

Amendment 3

On page 4, line 10, after "practice", insert ", as determined by action of the appropriate licensing board or agency,".

Amendment 4

On page 4, line 14, strike out "The", and insert "To initiate proceedings for the".

Amendment 5

On page 4, strike out lines 20 to 22, inclusive, and insert "and acceptable treatment patterns for institutional providers."

Amendment 6

On page 4, line 40, strike out "Chapter 1 (commencing with", and on page 5, line 1, strike out "Section 1200) or".

Amendment 7

On page 5, line 2, strike out "or pursuant to Division 9"; and strike out lines 3 to 5, inclusive, and insert a period.

Amendment 8

On page 5, strike out lines 11 to 14, inclusive, and insert "Professions Code or the Osteopathic Initiative Act."

Amendment 9

On page 7, strike out lines 16 to 18, inclusive, and insert
"(a) The presentation of findings to the appropriate licensing board or agency concerning the competence of professional and institutional providers and the initiation of proceedings before the appropriate licensing board or agency to restrict the licensure of professional and institutional providers "

Amendment 10

On page 7, line 23, strike out "the certification levels", and insert "a quality review mechanism".

Amendment 11

On page 7, strike out lines 34 to 36, inclusive.

Amendment 12

On page 8, strike out lines 21 and 22, and insert "and request an appropriate restriction of the provider's license. The office shall make all of its data available to the appropriate licensing board or agency and the Attorney General for the purposes of investigating and certifying providers as to competence "

Amendment 13

On page 8, strike out lines 34 to 40, inclusive, and on page 9, strike out lines 1 to 8, inclusive.

Amendment 14

On page 9, line 9, strike out "All", and insert "For the purpose of informing malpractice insurers, all".

Amendment 15

On page 9, line 10, strike out "certified", and insert "evaluated".

Amendment 16

On page 9, line 32, strike out "pursuant to Section 22034", and insert "of license by the appropriate licensing board or agency".

Amendment 16.5

On page 9, line 38, strike out "under"; and strike out lines 39 and 40, and insert "to the full scope of practice authorized by such license, until such time as the provider".

Amendment 17

On page 10, line 1, strike out "certified by this office", and insert "evaluated by this office and subsequently recertified by the appropriate licensing board or agency".

Amendment 18

On page 10, line 7, strike out "office", and insert "appropriate licensing board or agency".

Amendment 19

On page 10, line 9, strike out "certify", and insert "evaluate".

Amendment 20

On page 10, strike out lines 14 to 25, inclusive.

Amendment 20.5

On page 10, line 34, strike out "herein", and insert "by the appropriate licensing board or agency".

Amendment 21

On page 11, line 3, after "certified", insert "by the appropriate licensing board or agency after evaluation by the office".

Amendment 22

On page 11, strike out lines 6 to 18, inclusive, and insert "Code."

Amendment 23

On page 11, line 23, strike out "certified", and insert "evaluated".

Amendment 24

On page 11, line 24, strike out "so inform", and insert "initiate proceedings before".

Amendment 25

On page 11, line 25, strike out "receipt of", and insert "the initiation of".

Amendment 26

On page 11, line 26, strike out "notification, appropriately restrict", and insert "hearings, appropriately restrict or uphold".

Amendment 27

On page 11, line 27, strike out "The determination of the office is"; and strike out lines 28 and 29.

Bill ordered reprinted, and to be re-referred to the Committee on Health.

Hon. Walter W. Ingalls Presiding

At 12:55 p.m., Hon. Walter W. Ingalls, 68th District, presiding.

Speaker pro Tempore Presiding

At 1:05 p.m., Hon. Louis J. Papan, 19th District, presiding.

**CONSIDERATION OF DAILY FILE
UNFINISHED BUSINESS**

MOTION TO RECONSIDER ASSEMBLY BILL NO. 1

In compliance with a motion given on a previous day, Mr. Alatorre moved that the vote whereby Assembly Bill No. 1 was passed be reconsidered.

Assembly Bill No. 1 reconsidered by the following vote:

AYES—64

Alatorre	Craven	Lewis	Robinson
Antonovich	Deddeh	Lockyer	Rosenthal
Arnett	Dixon	MacDonald	Siegler
Badham	Duffy	Maddy	Sieroty
Bane	Egeland	McAlister	Suitt
Bannai	Fenton	McLennan	Thomas, Vincent
Berman	Foran	McVittie	Thomas William
Briggs	Garnemendi	Meade	Thurman
Burke	Greene	Mobley	Torres
Calvo	Hart	Mori	Vasconcellos
Carpenter	Hayden	Nestande	Vicencia
Chapple	Ingalls	Nimmo	Warren
Chel	Kapiloff	Papan	Wilson
Chimbole	Keene	Perino	Wornum
Cline	Keyser	Priolo	Z'berg
Collier	Lancaster	Ralph	Mr. Speaker

NOES—None

Further Consideration of Assembly Bill No. 1

Assembly Bill No. 1—An act to amend Sections 125.5, 2100, 2101, 2119, 2361, 2362, 2364, 2372.5, 2436, 2454, and 2458 of, to add Sections 2100.5, 2100.6, 2100.7, 2100.8, 2101.5, 2101.6, 2122, 2361.3, 2372, and 2372.1 to, to add Article 11 (commencing with Section 800) to Chapter 1 of Division 2 of, to add Article 2.3 (commencing with Section 2123) and Article 2.4 (commencing with Section 2124.5) to Chapter 5 of Division 2 of, to add Article 8.5 (commencing with Section 6146) to Chapter 4 of Division 3 of, to repeal Section 2372 of, to repeal Article 11 (commencing with Section 800) of Chapter 1 of Division 2 of, and to repeal Article 2.3 (commencing with Section 2123) of Chapter 5 of Division 2 of, the Business and Professions Code; to amend Section 43.8 of, and to add Section 3333.1 to the Civil Code; to amend Sections 340.5 and 1094.5 of, to add Section 667.7 to, and to add Chapter 5 (commencing with Section 364) to Title 2 of Part 2 of, the Code of Civil Procedure; and to add Sections 11587 and 11588 to the Insurance Code, relating to health, and making an appropriation therefor.

Bill read third time.

Motion to Amend by Mr. Kapiloff

Mr. Kapiloff moved the adoption of the following amendments:

Amendment 1

In line 18 of the title of the printed bill, as amended in Assembly June 17, 1975, after "Code," insert "and to amend Section 14105 of, and to add Sections 14105.1 and 14105.2 to, the Welfare and Institutions Code,".

Amendment 2

On page 39, between lines 9 and 10, insert

"SEC. 27.6. Section 14105 of the Welfare and Institutions Code is amended to read:

14105. The director shall prescribe the policies to be followed in the administration of this chapter, may limit the rates of payment for health care services, and shall adopt such rules and regulations as are necessary for carrying out, not inconsistent with, the provisions thereof.

Such policies and regulations shall include rates for payment for services not rendered under a contract pursuant to Chapter 8 (commencing with Section 14200) of this part. Standards for costs shall be based on payments of the reasonable cost for such services *except that rates of payment for providers under Section 14105 1 shall be based on the standards contained in that section*. Amounts paid for services provided to Medi-Cal beneficiaries shall be audited by the Department of Benefit Payments in the manner and form prescribed by it. The Department of Benefit Payments shall maintain adequate controls to insure responsibility and accountability for the expenditure of federal and state funds. Cost reports and other data submitted by providers to a state agency for the purpose of determining reasonable costs for services or establishing rates of payment shall be considered true and correct unless audited or reviewed by the Department of Benefit Payments within eighteen (18) months after July 1, 1969, the close of the period covered by the report, or after the date of submission of the original or amended report by the provider, whichever is later; provided, however, that cost reports and other data for cost reporting periods beginning on January 1, 1972, and thereafter shall be considered true and correct unless audited or reviewed within three years after the close of the period covered by the report, or after the date of submission of the original or amended report by the provider, whichever is later.

Nothing in this section shall be construed to limit the correction of cost reports or rates of payment when inaccuracies are determined to be the result of intent to defraud, or when a delay in the completion of an audit is the result of willful acts by the provider or inability to reach agreement on the terms of final settlement.

Insofar as practical, consistent with the efficient and economical administration of this part, the department shall afford recipients of public assistance free choice of arrangements under which they shall receive health care benefits.

If, in the judgment of the director, the actions taken by the director under subdivision (c) of Section 14120 will not be sufficient to operate the Medi-Cal program within the limits of appropriated funds, he may limit the scope and kinds of health care services, except for minimum coverage as defined in Section 14056, available to persons who are not eligible under Sections 14005.1, 14005.2 and 14005.3. When and if necessary, such action shall be taken by the director with the advice of the Health Care Commission and in ways consistent with the requirements of the Federal Social Security Act. This paragraph shall not be operative until July 1, 1972.

SEC. 27.7. Section 14105.1 is added to the Welfare and Institutions Code, to read:

14105.1. Each provider shall be reimbursed his usual and customary charge, provided, that no provider shall be reimbursed an amount exceeding either his usual and customary charge to private patients or the 60th percentile of the customary and prevailing charge for such service in California as of January 1 of the preceding fiscal year as determined by the department. In the case of physicians and such other provider groups as the department may designate, the customary and prevailing charges and the 60th percentile thereof shall be determined on a localized basis. In determining the customary and prevailing charges and the 60th percentile thereof, the department shall solicit and consider data submitted by professional associations representing health care provider groups.

The department shall, when feasible, reimburse provider groups on a relative service value basis.

As used in this section the term "provider" shall not include health facilities licensed pursuant to Section 1250 or exempt from licensing under subdivision (a) of Section 1270 of the Health and Safety Code.

This section shall be operative to the extent permitted by federal law.

SEC. 27.8. Section 14105.2 is added to the Welfare and Institutions Code, to read:

14105.2. A provider of health care services under this chapter may seek review by the department of the rates established for payment of services. The director shall conduct such review in accordance with the procedure contained in Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2, of the Government Code."

Amendments read.

Demand for Previous Question

Messrs. Craven, MacDonald, Calvo, Ingalls, and Chel demanded the previous question. Demand sustained.

The question being on the adoption of the amendments offered by Mr. Kapiloff to Assembly Bill No. 1.

Amendments refused adoption by the following vote:

AYES—19

Alatorre	Craven	Meade	Torres
Antonovich	Fenton	Priolo	Vasconcellos
Brown	Kapiloff	Seroty	Vicencia
Burke	Lockyer	Thomas, Vincent	Wilson
Carpenter	MacDonald	Thomas, William	

NOES—48

Arnett	Cline	Ingalls	Nestande
Badham	Colher	Keene	Nimmo
Bane	Cullen	Keysor	Papan
Bannai	Davis	Lancaster	Perino
Berman	Dixon	Lanterman	Robinson
Beverly	Duffy	Maddy	Rosenthal
Boatwright	Egeland	McAlister	Siegler
Briggs	Foran	McLennan	Suitt
Calvo	Garamendi	McVittie	Thurman
Chappie	Greene	Mobley	Wornum
Chel	Gualco	Mori	Z'berg
Chimbole	Hayden	Murphy	Mr. Speaker

The question being on the passage of Assembly Bill No. 1.

Bill passed by the following vote:

AYES—65

Antonovich	Craven	Keysor	Priolo
Arnett	Cullen	Lancaster	Ralph
Badham	Davis	Lanterman	Robinson
Bane	Deddeh	Lockyer	Rosenthal
Bannai	Dixon	MacDonald	Siegler
Berman	Duffy	McAlister	Seroty
Beverly	Egeland	McLennan	Suitt
Boatwright	Fenton	McVittie	Thomas, Vincent
Briggs	Foran	Miller	Thomas, William
Burke	Garamendi	Mobley	Thurman
Calvo	Greene	Montoya	Vasconcellos
Carpenter	Gualco	Mori	Warren
Chappie	Hart	Murphy	Wilson
Chel	Hayden	Nimmo	Wornum
Chimbole	Ingalls	Papan	Z'berg
Cline	Keene	Perino	Mr. Speaker

NOES—8

Alatorre	Kapiloff	Meade	Torres
Brown	Maddy	Nestande	Vicencia

Bill ordered transmitted to the Senate.

RECESS

At 1 42 p. m., Speaker pro Tempore Papan declared the Assembly recessed.

REASSEMBLED

At 2:49 p.m., the Assembly reconvened.

Hon. Leo T. McCarthy, Speaker of the Assembly, presiding.

QUORUM CALL OF THE ASSEMBLY DISPENSED WITH

At 2:49 p.m., Speaker McCarthy declared the quorum call of the Assembly dispensed with.

VOTE CHANGES

The following Members were granted unanimous consent to record their votes:

On the amendments offered by Mr. Kapiloff to Assembly Bill No. 1: Mr. Vasconcellos, "Aye"; Mr. Deddeh, "No" to "Not voting".

On Assembly Bill No. 1: Mr. Montoya, "Aye".

ADJOURNMENT

At 2:50 p.m., Speaker McCarthy declared the Assembly adjourned until 9 a.m., Monday, June 23, 1975.

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNALTWENTY-FOURTH LEGISLATIVE DAY
THIRTY-SIXTH CALENDAR DAY**IN ASSEMBLY**Assembly Chamber, Sacramento
Monday, June 23, 1975

The Assembly met at 6 23 p m

Hon. Leo T McCarthy, Speaker of the Assembly, presiding.

Chief Clerk James D Driscoll at the Desk.

Assistant Clerk Ray Monday reading.

ROLL CALL

The roll was called, and the following answered to their names—78:

Alatorre	Collier	Knox	Perino
Antonovich	Craven	Lancaster	Priolo
Arnett	Cullen	Lanterman	Ralph
Badham	Davis	Lewis	Robinson
Bane	Deddeh	Lockyer	Rosenthal
Bannai	Dixon	MacDonald	Siegler
Berman	Duffy	Maddy	Sieroty
Beverly	Egeland	McAlister	Sutt
Boutwright	Fenton	McLennan	Thomas, Vincent
Briggs	Forn	McVittie	Thomas, William
Brown	Garamendi	Meade	Thurman
Burke	Goggin	Miller	Torres
Calvo	Greene	Mobley	Vasconcellos
Campbell	Gualco	Montoya	Vicencia
Carpenter	Hart	Mori	Warren
Chacon	Hayden	Murphy	Wilson
Chappie	Ingalls	Nestande	Wornum
Chel	Kapiloff	Nimmo	Z'berg
Chimbole	Keene	Papan	Mr. Speaker
Cline	Keysor		

Quorum present.

PRAYER

The following prayer was offered by the Chaplain, Father Leo McAllister:

We give You thanks
for what we have received as a gift;
Life itself, and language,
the touch of someone who loves us,
The delights of food and drink,
and the gifts we take for granted,
Like coolness in the evening,
and the earth turning back to the sun.

We give You thanks
for a world of so much variety
That we believe in Heaven
because we don't have time to enjoy all the earth.

Most of all we thank You, Father,
for the gift of a fellow human
Whom we call Jesus and some of us call Lord,
who dares to make us hope
That Your power is greater than all our troubles
and we are right to join the angels in Your praise.

—J. T. Nolan

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker McCarthy, Mr. Kapiloff then led the Assembly in the pledge of allegiance to the Flag.

MOTION TO DISPENSE WITH READING OF THE JOURNAL

Further reading of the Journal of the previous legislative day was dispensed with on motion of Mr Beverly, seconded by Mr. Calvo.

LEAVES OF ABSENCE FOR THE DAY

The following Member was granted leave of absence for the day, because of illness:

Mr. Tucker, on request of Speaker pro Tempore Papan.

CONSIDERATION OF DAILY FILE
SECOND READING OF ASSEMBLY BILLS

Assembly Bill No. 12—An act to add Article 7 (commencing with Section 11890) to Chapter 4 of Part 3 of Division 2 of the Insurance Code, relating to medical malpractice, and making an appropriation therefor.

Bill read second time.

Consideration of Committee Amendments

The following amendments, proposed by the Committee on Finance, Insurance, and Commerce, were read, and adopted:

Amendment 1

In line 1 of the heading of the printed bill, strike out "and".

Amendment 2

In line 2 of the heading, after "Robinson", insert ", Goggin, Kapi-
loff, Miller, Torres, and Z'berg".

Amendment 3

In lines 3 and 4 of the title, strike out ", and making an appropriation therefor".

Amendment 4

On page 3, line 13, strike out "which occurs during"; strike out lines 14 and 15; and in line 16, strike out "licensee".

Amendment 5

On page 3, line 23, strike out "The", and insert
"If the Governor finds that essential health care services are un-
available or may imminently become unavailable to a significant num-
ber of persons anywhere in this state, the Governor may, by proclama-
tion, create the".

Amendment 6

On page 3, line 24, strike out "is hereby created".

Amendment 7

On page 3, line 27, after "insurance", insert "on an occurrence basis only".

Amendment 8

On page 4, line 32, strike out "years", and insert "year".

Amendment 9

On page 4, line 32, strike out "year", and insert "years".

Amendment 10

On page 4, line 34, strike out "and necessary reserves", and insert
"and such reserves as the board of directors may determine".

Amendment 11

On page 4, strike out line 36; and in line 37, strike out "account".

Amendment 12

On page 5, line 10, strike out the second period.

Amendment 13

On page 5, line 11, strike out "hereby".

Amendment 14

On page 9, between lines 22 and 23, insert
"11892.4. Whenever the account is not possessed of admitted assets sufficient to discharge all liabilities and to maintain adequate surplus, the board of directors may make an equitable assessment upon policies which have been written by the account for the amount needed to make up the deficiency. Every subscriber from the account shall be liable to pay, and shall pay, his proportional part of any such assessment. Each such subscriber's share of the deficiency for which an assessment is made shall be determined by applying to the premium earned on the subscriber's policy or policies during the period to be covered by the assessment, the ratio of the total deficiency to the total premiums earned during such period, upon all policies subject to and available for such assessment."

Amendment 15

On page 9, strike out lines 38 to 40, inclusive.

Amendment 16

On page 10, strike out line 1.

Bill ordered reprinted, and to be re-referred to the Committee on Ways and Means.

COMMUNICATIONS

Assembly Chamber, June 23, 1975

Mr. Speaker Pursuant to your instructions, the Chief Clerk has examined.

Assembly Bill No 4

And reports the same correctly engrossed.

JAMES D. DRISCOLL, Chief Clerk

Above bill re-referred to committee.

ADJOURNMENT

At 6:24 p.m., Speaker McCarthy declared the Assembly adjourned until 9 a.m., Tuesday, June 24, 1975.

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNALTWENTY-FIFTH LEGISLATIVE DAY
THIRTY-SEVENTH CALENDAR DAY**IN ASSEMBLY**Assembly Chamber, Sacramento
Tuesday, June 24, 1975

The Assembly met at 7 p.m.

Hon. Leo T. McCarthy, Speaker of the Assembly, presiding.

Chief Clerk James D. Driscoll at the Desk.

Assistant Clerk Ray Monday reading.

ROLL CALL

The roll was called, and the following answered to their names—78:

Alatorre	Collier	Knox	Perino
Antonovich	Cruzen	Lancaster	Priolo
Arnett	Cullen	Lanterman	Ralph
Badham	Davis	Lewis	Robinson
Bane	Deddeh	Lockyer	Rosenthal
Bannai	Dixon	MacDonald	Siegler
Berman	Duffy	Maddy	Sieroty
Beverly	Egeland	McAlister	Suitt
Boatwright	Fenton	McLennan	Thomas, Vincent
Briggs	Foran	McVittie	Thomas, William
Brown	Garamendi	Meade	Thurman
Hurke	Goggin	Miller	Torres
Calvo	Greene	Mobley	Vasconcellos
Campbell	Gualco	Montoya	Vicencia
Carpenter	Hart	Mori	Warren
Chacon	Hayden	Murphy	Wilson
Chappie	Ingalls	Nestande	Wornum
Chel	Kapiloff	Nimmo	Z'berg
Chumble	Keene	Papan	Mr. Speaker
Cline	Kejser		

Quorum present.

PRAYER

The following prayer was offered by the Chaplain, Father Leo McAllister:

We Pray to You, God, Our Father, For all the people who serve this State of California. May those who are elected prove to the public by their deeds and achievements that they are dedicated to serving rather than being served, that they are honest, concerned, and honorable.

Keep them mindful of the fact that they are not only makers of laws and policies but also molders of human minds and attitudes

Help them to embrace this responsibility with enthusiasm, humility, and always with abundant care and concern.—AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker McCarthy, Mr. Chel then led the Assembly in the pledge of allegiance to the Flag.

MOTION TO DISPENSE WITH READING OF THE JOURNAL

Further reading of the Journal of the previous legislative day was dispensed with on motion of Mr. Calvo, seconded by Mr. Siegler.

LEAVES OF ABSENCE FOR THE DAY

The following Member was granted leave of absence for the day, because of illness:

Mr. Tucker, on request of Speaker McCarthy.

COMMUNICATIONS

Assembly Chamber, June 24, 1975

Mr. Speaker: Pursuant to your instructions, the Chief Clerk has examined:

Assembly Bill No. 12

And reports the same correctly engrossed.

JAMES D. DRISCOLL, Chief Clerk

Above bill re-referred to committee.

AUTHOR'S AMENDMENTS

Committee on Judiciary

Assembly Chamber, June 24, 1975

Mr. Speaker: The Chairman of your Committee on Judiciary reports:

Assembly Bill No. 28

With author's amendments with the recommendation: Amend, and re-refer to the Committee on Judiciary

MILLER, Chairman

Assembly Bill No. 23—An act to add Chapter 12 (commencing with Section 4950) to Division 2 of the Business and Professions Code, relating to medical malpractice reports.

Bill read second time.

Consideration of Author's Amendments

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted:

Amendment 1

On page 2, line 8, of the printed bill, as amended in Assembly June 12, 1975, strike out "health care"; and in line 9, strike out "providers", and insert "physicians".

Amendment 1.5

On page 2, line 10, strike out "health care providers", and insert "physicians".

Amendment 2

On page 2, line 12, strike out "health care providers", and insert "physicians".

Amendment 3

On page 3, strike-out lines 2 to 16, inclusive, and insert "4952. "Board" means Board of Medical Quality Assurance as defined in Section 2100 and the Board of Osteopathic Examiners of the State of California.

4953. "Physician" means any person who is certified to do the acts specified in Section 2137 and any person licensed pursuant to the Osteopathic Initiative Act."

Amendment 4

On page 3, line 33, strike out "said", and insert "such".

Amendment 4.5

On page 3, line 37, strike out ", a health care provider", and insert "a physician".

Amendment 5

On page 3, strike out lines 38 and 39.

Amendment 6

On page 3, line 40, strike out "health care provider", and insert "physician".

Amendment 7

On page 4, lines 3 and 4, strike out "health care provider", and insert "physician".

Amendment 8

On page 4, line 4, strike out "said", and insert "such".

Amendment 9

On page 4, strike out line 6; and in line 7, strike out "professions", and insert "to the board regulating the physician or physicians".

Amendment 10

On page 4, lines 14 and 15, strike out "health care provider or providers", and insert "physician or physicians".

Amendment 11

On page 4, line 22, strike out "health care provider", and insert "physician".

Amendment 12

On page 4, line 27, strike out "health care provider", and insert "physician".

Amendment 13

On page 4, line 35, strike out "health care provider", and insert "physician".

Amendment 14

On page 4, strike out line 37, and insert "after the receipt of such notice, the physician".

Amendment 15

On page 5, line 20, strike out "health care provider", and insert "physician".

Amendment 16

On page 5, line 22, strike out "health care provider", and insert "physician".

Amendment 17

On page 5, line 28, strike out "health care provider", and insert "physician".

Amendment 18

On page 6, strike out lines 1 to 15, inclusive, and insert

"4964. Any physician who knowingly and willfully fails to submit a report as required by Sections 4958 and 4961 with intent to conceal the incident or occurrence is guilty of unprofessional conduct within the meaning of Section 2361.

4965. Any physician who willfully suppresses or attempts to suppress information required by this chapter to be reported or who, by the exercise of oppression, fraud, or undue influence, seeks to prevent any other person from reporting any matter as provided by this chapter is guilty of unprofessional conduct within the meaning of Section 2361."

Amendment 19

On page 6, line 19, strike out "said", and insert "such".

Amendment 20

On page 6, line 22, after "notification", insert "to the patient".

Amendment 21

On page 6, line 24, after "4958", insert "Within the same period of time the board shall send written notification by registered mail to the physician who is responsible for the alleged negligent acts or omissions or acts of professional incompetence that caused injury to a patient."

Amendment 22

On page 6, line 26, strike out "notification", and insert "notifications".

Amendment 23

On page 6, lines 26 and 27, strike out "health care provider", and insert "physician".

Amendment 24

On page 6, line 37, strike out "health care provider or by a health care"; and in line 38, strike out "provider", and insert "physician or by a physician".

Amendment 25

On page 6, line 39, strike out "health care providers", and insert "physicians".

Amendment 26

On page 6, line 40, strike out "person", and insert "physician".

Amendment 27

On page 7, strike out lines 3 to 6, inclusive, and insert "is guilty of unprofessional conduct within the meaning of Section 2361."

Amendment 28

On page 7, line 9, strike out "health care provider", and insert "physician".

Amendment 29

On page 7, line 15, strike out "health care provider", and insert "physician".

Amendment 30

On page 7, line 18, strike out "health care provider", and insert "physician".

Bill ordered reprinted, and to be re-referred to the Committee on Judiciary.

JOINT RULE 62(a) WAIVED

Speaker McCarthy was granted unanimous consent that Joint Rule 62(a) be waived for the purpose of setting Assembly Bills Nos. 2 and 5 for hearing in the Committee on Health on Wednesday, June 25, 1975.

ADJOURNMENT

At 7:01 p.m., Speaker McCarthy declared the Assembly adjourned until 9 a.m., Wednesday, June 25, 1975.

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNAL

TWENTY-SIXTH LEGISLATIVE DAY

THIRTY-EIGHTH CALENDAR DAY

IN ASSEMBLY

Assembly Chamber, Sacramento
Wednesday, June 25, 1975

The Assembly met at 6:21 p. m.

Hon. Leo T. McCarthy, Speaker of the Assembly, presiding

Chief Clerk James D. Driscoll at the Desk.

Assistant Clerk Ray Monday reading.

ROLL CALL

The roll was called, and the following answered to their names—78:

Alatorre	Collier	Knox	Perino
Antonovich	Craven	Lancaster	Priolo
Arnett	Cullen	Lanterman	Ralph
Badham	Davis	Lewis	Robinson
Bane	Deddeh	Lockyer	Rosenthal
Bannai	Dixon	MacDonald	Siegler
Berman	Duffy	Maddy	Sieroty
Beverly	Egeland	McAlister	Sutt
Boatwright	Fenton	McLennan	Thomas, Vincent
Briggs	Foran	McVittie	Thomas, William
Brown	Garamendi	Meade	Thurman
Burke	Goggin	Miller	Torres
Calvo	Greene	Mobley	Vasconcellos
Campbell	Gualco	Montoya	Vicencia
Carpenter	Hart	Mori	Warren
Chacon	Hayden	Murphy	Wilson
Chappie	Ingalls	Nestade	Wornum
Chel	Kapiloff	Nimmo	Z'berg
Chimbole	Keene	Papan	Mr. Speaker
Cline	Keysor		

Quorum present.

PRAYER

The following prayer was offered by the Chaplain, Father Leo McAllister:

Father, May we reflect on the words of the late Dag Hammarskjold, "How am I to find the strength to live as a free man, detached from all that was unjust in my past and all that is petty in my present, and so, daily, to forgive myself?"

"Life will judge me by the measure of the love I myself am capable of, and with patience according to the measure of my honesty in attempting to meet its demands, and with an equity before which the feeble explanations and excuses of self-importance carry no weight whatsoever"—AMEN.

JOINT RULE 62(a) WAIVED

Speaker McCarthy was granted unanimous consent that Joint Rule 62(a) be waived for the purpose of setting Assembly Bills Nos 2 and 5 for hearing in the Committee on Health.

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker McCarthy, Mr Nimmo then led the Assembly in the pledge of allegiance to the Flag.

READING OF THE JOURNAL DISPENSED WITH

By unanimous consent, reading of the Journal of the previous legislative day was dispensed with.

LEAVES OF ABSENCE FOR THE DAY

The following Member was granted leave of absence for the day, because of illness.

Mr Tucker, on request of Speaker McCarthy

REPORTS OF STANDING COMMITTEES**Committee on Health**

Assembly Chamber, June 23, 1975

Mr. Speaker Your Committee on Health reports:

Assembly Bill No 35

With amendments with the recommendation Amend, do pass, as amended, and be re-referred to the Committee on Ways and Means

KEENE, Chairman

Above bill ordered to second reading.

ADJOURNMENT

At 6 22 p m, Speaker McCarthy declared the Assembly adjourned until 9 a m, Thursday, June 26, 1975.

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNAL

TWENTY-SEVENTH LEGISLATIVE DAY

THIRTY-NINTH CALENDAR DAY

IN ASSEMBLY

Assembly Chamber, Sacramento
Thursday, June 26, 1975.

The Assembly met at 6:13 p m.

Hon Leo T McCarthy, Speaker of the Assembly, presiding.

Chief Clerk James D Driscoll at the Desk.

Assistant Clerk Ray Monday reading.

ROLL CALL

The roll was called, and the following answered to their names—79:

Alatorre	Collier	Knox	Prilo
Antonovich	Craven	Lancaster	Ralph
Arnett	Cullen	Lanterman	Robinson
Badham	Davis	Lewis	Rosenthal
Bane	Deedeh	Lockyer	Siegler
Barnai	Dixon	MacDonald	Sieroty
Beiman	Duffy	Maddy	Sutt
Beverly	Egeland	McAlister	Thomas, Vincent
Boatwright	Fenton	McLennan	Thomas, Wilham
Briggs	Foran	McVittie	Thurman
Brown	Garamendi	Meade	Tories
Burke	Goggin	Miller	Tucker
Calo	Greene	Mobley	Vancencellos
Campbell	Gualco	Montoya	Vicencia
Carpenter	Hart	Meri	Warren
Chacon	Hayden	Murphy	Wilson
Chappie	Ingalls	Nestande	Winnum
Chel	Kaploff	Nimmo	Zberg
Chimbole	Keene	Papan	Mr. Speaker
Chne	Kej sor	Peirino	

Quorum present.

PRAYER

Upon invitation of Speaker McCarthy, the following prayer was offered by Rev Robert Romeis, St. John's Lutheran Church.

Eternal God and Heavenly Father, Who dost hold in the hollow of Thy hand the destiny of each and every one of us; we give Thee thanks that Thou hast protected us through the night from all danger and harm, and that Thou hast set before us this bright new day, without blot or stain upon it. Grant us so to live these coming hours that when at evening we offer to Thee the record of this day it may not be soiled with selfish interest, narrow prejudice, or inadequate vision; but may rather be engraved with words and deeds of honor, courage, faithfulness and self-giving service; through Jesus Christ, Thy Son, our Lord.—AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker McCarthy, Mr. Deddeh then led the Assembly in the pledge of allegiance to the Flag.

MOTION TO DISPENSE WITH READING OF THE JOURNAL

Further reading of the Journal of the previous legislative day was dispensed with on motion of Mr. Calvo, seconded by Mr. MacDonald.

REQUEST FOR UNANIMOUS CONSENT

Speaker McCarthy was granted unanimous consent that all bills reported from committees today be taken up without reference to file, for purpose of second reading and adoption of committee amendments; that all amended bills be returned to the third reading file or the Second Day Consent Calendar, and that all Assembly bills be considered engrossed.

COMMUNICATIONS

Assembly Chamber, June 25, 1975

Mr Speaker Pursuant to your instructions, the Chief Clerk has examined:

Assembly Bill No 23

And reports the same correctly engrossed.

JAMES D. DRISCOLL, Chief Clerk

Above bill re-referred to committee.

**CONSIDERATION OF DAILY FILE
SECOND READING OF ASSEMBLY BILLS**

Assembly Bill No. 35—An act to add Section 14110 4 to the Welfare and Institutions Code, relating to Medi-Cal, and declaring the urgency thereof, to take effect immediately.

Bill read second time

Consideration of Committee Amendments

The following amendments, proposed by the Committee on Health, were read, and adopted.

Amendment 1

In line 2 of the title of the printed bill, after the second comma, insert "making an appropriation therefor,".

Amendment 2

On page 2, line 3, strike out "Medi-Cal", and insert "Effective July 1, 1975, Medi-Cal basic".

Amendment 3

On page 2, line 8, after "rates", insert "and any changes in such rates pursuant to this section".

Amendment 4

On page 2, line 11, strike out "Department of Health", and insert "rates and fees section of the department".

Amendment 5

On page 2, line 15, after "the", insert "rates and fees section of the".

Amendment 6

On page 2, line 16, after "new", insert "basic".

Amendment 7

On page 2, line 17, after "effective", insert "July 1, 1976, and".

Amendment 8

On page 2, line 17, strike out ". Rates", and insert "thereafter. Such rates".

Amendment 9

On page 2, strike out lines 23 to 30, inclusive; and in line 31, strike out "regional cost differentials."

Amendment 10

On page 2, line 32, strike out "department rate review", and insert "rate review by the rates and fees section of the department".

Amendment 11

On page 3, line 3, after the second "the", insert "Rates and Fees Section of the".

Amendment 12

On page 3, line 4, after "shall", insert "in addition to its annual adjustment".

Amendment 13

On page 3, line 4, after "the", insert "basic".

Amendment 14

On page 3, strike out lines 7 to 9, inclusive.

Amendment 15

On page 3, between lines 19 and 20, insert "For the purposes of this section "skilled nursing facility" means as defined in Section 1250 of the Health and Safety Code

SEC 2 There is hereby appropriated from the General Fund in the State Treasury to the State Department of Health the sum of twelve million dollars (\$12,000,000) for the purposes of reimbursements for skilled nursing facility care as provided in Section 14110.4 of the Welfare and Institutions Code."

Amendment 16

On page 3, line 20, strike out "2", and insert "3".

Bill ordered reprinted, and to be re-referred to the Committee on Ways and Means.

REPORTS OF STANDING COMMITTEES**Committee on Health**

Assembly Chamber, June 26, 1975

Mr Speaker · Your Committee on Health reports:

Assembly Bill No 2

With amendments with the recommendation · Amend, do pass, as amended, and be re-referred to the Committee on Ways and Means.

KEENE, Chairman

Above bill ordered to second reading.

SECOND READING OF ASSEMBLY BILLS—BY UNANIMOUS CONSENT

Pursuant to unanimous consent granted earlier this day, the following bill was taken up without reference to file, for purpose of second reading.

Assembly Bill No. 2—An act to repeal Article 4 5 (commencing with Section 2176) of Chapter 5 of Division 2 of the Business and Professions Code, and to amend Sections 441 18, and 1265 5 of, to add Part 4 (commencing with Section 1185) and Part 5 (commencing with Section 1199) to Division 1 of, to repeal Section 442 11 of, and to repeal Part 1.5 (commencing with Section 437) of Division 1 of, the Health and Safety Code, relating to health services and facilities, and making an appropriation therefor.

Bill read second time.

Consideration of Committee Amendments

The following amendments, proposed by the Committee on Health, were read, and adopted:

Set No. 1**Amendment 1**

In line 4 of the heading of the printed bill, as amended in Assembly June 18, 1975, strike out "and Vincent Thomas", and insert "Vincent Thomas, Thurman, and Vasconcellos

(Coauthors · Senators Rains and Greene)".

Set No. 2**Amendment 1**

In line 1 of the title of the printed bill, as amended in Assembly June 18, 1975, strike out "repeal Article 4 5 (commencing with Section"; strike out line 2; and in line 3, strike out "Professions Code; and to".

Amendment 2

In line 4 of the title, strike out "Part 4 (commencing with Section 1185) and".

Amendment 3

In lines 8 and 9 of the title, strike out “, and making an appropriation therefor”.

Amendment 4

On page 46, strike out lines 5 to 40, inclusive; and strike out pages 47 to 56, inclusive.

Set No. 3**Amendment 1**

On page 7, line 24, of the printed bill, as amended in Assembly June 18, 1975, strike out the first comma, and insert “and”.

Amendment 2

On page 7, line 24, strike out “and rates”.

Set No. 4**Amendment 1**

On page 13 of the printed bill, as amended in Assembly June 18, 1975, strike out lines 8 to 10, inclusive.

Amendment 2

On page 13, line 16, strike out “and to”; strike out line 17; and in line 18, strike out “facilities”.

Amendment 3

On page 14, strike out lines 24 and 25.

Bill ordered reprinted, and to be re-referred to the Committee on Ways and Means.

MESSAGES FROM THE SENATE

Senate Chamber, June 26, 1975

Mr. Speaker: I am directed to inform your honorable body that the Senate on this day adopted

Senate Concurrent Resolution No 2

DARRYL R. WHITE, Secretary of the Senate
By John W. Rovane, Chief Assistant Secretary

FIRST READING AND REFERENCE OF SENATE BILLS

The following resolution was read:

Senate Concurrent Resolution No. 2—Relative to recess of the Legislature.

ADJOURNMENT

At 6:14 p m, Speaker McCarthy declared the Assembly adjourned until 8 30 a m, Friday, June 27, 1975.

LEO T. MCCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

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CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNAL

TWENTY-EIGHTH LEGISLATIVE DAY

FORTIETH CALENDAR DAY

IN ASSEMBLYAssembly Chamber, Sacramento
Friday, June 27, 1975

The Assembly met at 11:52 p.m.

Hon. John T. Knox, Member of the Assembly, 11th District,
presiding

Chief Clerk James D. Driscoll at the Desk.

Assistant Clerk Ray Monday reading.

ROLL CALL

The roll was called, and the following answered to their names—78:

Alatorre	Craven	Lancaster	Priolo
Antonovich	Cullen	Lanterman	Ralph
Arnett	Davis	Lewis	Robinson
Badham	Deddeh	Lockyer	Rosenthal
Bane	Dixon	MacDonold	Siegler
Bannai	Duffy	Maddy	Sieroty
Berman	Egeland	McAlister	Suitt
Beverly	Fenton	McLennan	Thomas, Vincent
Boatwright	Foran	McVittie	Thomas, William
Briggs	Garamendi	Meade	Thuman
Brown	Goggin	Miller	Torres
Burke	Greene	Mobley	Tucker
Calvo	Gualco	Montoya	Vasconcellos
Campbell	Hart	Mori	Vicencia
Carpenter	Hayden	Murphy	Warren
Chacon	Ingalls	Nestande	Wilson
Chappie	Kapiloff	Nimmo	Wornum
Chel	Keene	Papan	Z'berg
Chimbole	Keyser	Perino	Mr. Speaker
Clune	Knox		

Quorum present.

PRAYER

Upon invitation of Speaker McCarthy, the following prayer was offered by Reverend Dr Robert S Romeis, St John's Lutheran Church.

Almighty and Everlasting God, Give us the insight to see that budgets and figures and dollar signs are more than ink upon paper and

numbers that come out to neat balances. Make us look beyond the obvious and see the millions of people who are affected, the programs that are advanced or reduced, the services given, and the hope promised. Grant that the budget approved by this body may not only speak in terms of money, but may shout to the world that this state government is one that is truly of the people, by the people, and for the people—AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Acting Speaker Knox, Mr Burke then led the Assembly in the pledge of allegiance to the Flag.

MOTION TO DISPENSE WITH READING OF THE JOURNAL

Further reading of the Journal of the previous legislative day was dispensed with on motion of Mr. Siegler, seconded by Mr William Thomas.

LEAVES OF ABSENCE FOR THE DAY

The following Member was excused for the day, and his per diem was waived:

Mr. Collier.

REPORTS OF STANDING COMMITTEES

Committee on Health

Assembly Chamber, June 26, 1975

Mr Speaker - Your Committee on Health reports:

Assembly Bill No. 5

With amendments with the recommendation: Amend, do pass, as amended, and be re-referred to the Committee on Ways and Means.

KEENE, Chairman

Above bill ordered to second reading.

REQUEST FOR UNANIMOUS CONSENT TO TAKE UP SENATE CONCURRENT RESOLUTION NO. 2

Mr Ralph was granted unanimous consent to take up Senate Concurrent Resolution No 2 without reference to committee, print, or file.

Consideration of Senate Concurrent Resolution No. 2

Senate Concurrent Resolution No. 2—Relative to recess of the Legislature.

Resolution read, presented by Mr Ralph, and adopted by the following vote.

AYES—67

Alatorre	Chne	Lanterman	Robinson
Antonovich	Cullen	Lockyer	Rosenthal
Arnett	Dixon	MacDonald	Siegler
Bane	Duffy	Maddy	Sierofj
Bunnai	Egeland	McAlister	Suitt
Berman	Fenton	McLennan	Thomas, Vincent
Beverly	Foian	Meade	Thomas, William
Boatwright	Goggin	Mobley	Thurman
Briggs	Greene	Montoya	Torres
Brown	Gualco	Mori	Vasconcellos
Burke	Hart	Murphy	Vicencia
Calvo	Hayden	Nestande	Warren
Campbell	Ingalls	Ninno	Wilson
Carpenter	Kaploff	Papan	Wornum
Chacon	Keisor	Perino	Z'berg
Chappie	Knox	Prisolo	Mr. Speaker
Chimbole	Lancaster	Ralph	

NOES—7

Chel	Deddeh	Keene	Miller
Davis	Garamendi	McVittie	

Resolution ordered transmitted to the Senate.

ADJOURNMENT

At 11:53 p m, pursuant to the provisions of Senate Concurrent Resolution No 2, Acting Speaker Knox declared the Assembly adjourned until 9 a m., August 4, 1975.

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

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CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNAL

TWENTY-NINTH LEGISLATIVE DAY

SEVENTY-EIGHTH CALENDAR DAY

IN ASSEMBLY

Assembly Chamber, Sacramento
Monday, August 4, 1975

The Assembly met at 11:56 a.m.

Hon. Leo T. McCarthy, Speaker of the Assembly, presiding.

Chief Clerk James D. Driscoll at the Desk.

Assistant Clerk Ray Monday reading.

ROLL CALL

The roll was called, and the following answered to their names—75:

Alatorre	Collier	Keene	Papan
Antonovich	Craven	Keyser	Perino
Arnett	Cullen	Knox	Priolo
Badham	Davis	Lancaster	Ralph
Bane	Deddeh	Lanterman	Robinson
Banana	Dixon	Lewis	Rosenthal
Berman	Duffy	Lockyer	Siegler
Beverly	Egeland	MacDonald	Sietoty
Bontly right	Fenton	Maddy	Sutt
Briggs	Foran	McAlister	Thomas, Vincent
Brown	Garamendi	McLennan	Thomas, William
Buike	Goggin	McVittie	Thurman
Calvo	Greene	Mende	Torres
Carpenter	Gualco	Miller	Tucker
Chacon	Hart	Montoya	Vasconcellos
Chappie	Hayden	Mori	Vicencia
Chel	Hughes	Murphy	Wilson
Chimbole	Ingalls	Nestande	Mr. Speaker
Clune	Kapiloff	Nimmo	

Quorum present.

PRAYER

The following prayer was offered by the Chaplain, Father Leo McAlister:

Lord, As we convene again in this chamber, we turn to You to humbly ask that You help us to be more truly what we profess to be and more nobly what we are called to be. Let not the cares, the victories or the defeats distract us from the tasks that lay before us. Help us all in a spirit of shared brotherhood and responsibility to give to this state and its people the very best we have.—AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker McCarthy, Mr. Fenton then led the Assembly in the pledge of allegiance to the Flag.

READING OF THE JOURNAL DISPENSED WITH

By unanimous consent, reading of the Journal of the previous legislative day was dispensed with.

LEAVES OF ABSENCE FOR THE DAY

The following Member was granted leave of absence for the day, because of illness

Mr. Campbell, on request of Speaker McCarthy.

The following Member was granted leave of absence for the day, on legislative business:

Mr. Z'berg, on request of Speaker McCarthy.

The following Members were granted leaves of absence for the day, on personal business, and desired to waive their per diem:

Mr. Mobley, on request of Speaker McCarthy.

Mr. Warren, on request of Speaker McCarthy.

Mr. Wornum, on request of Speaker McCarthy.

NOTE: For letter explaining the absence of Mr. Z'berg on this day on legislative business pursuant to the Assembly Rules, see *Assembly Daily Journal* for the regular session for this day.

**CONSIDERATION OF DAILY FILE
SECOND READING OF ASSEMBLY BILLS**

Assembly Bill No. 5—An act to amend Sections 125 5, 2100, 2101, 2119, 2361, 2361 5, 2362, 2364, 2372 5, 2436, 2454, and 2458 of, to add Article 11 (commencing with Section 800) to Chapter 1 of Division 2 of, Sections 2100 5, 2100 6, 2100 7, 2100 8, 2101.5, 2122 to, Article 2 3 (commencing with Section 2123) to Chapter 5 of Division 2 of, and Sections 2372, 2372 1, and 2458 5 to, and to repeal Article 11 (commencing with Section 800) of Chapter 1 of Division 2 of, Article 2 3 (commencing with Section 2123) of Chapter 5 of Division 2 of, and Section 2372 of, the Business and Professions Code, and to add Section 14132.5 to the Welfare and Institutions Code, relating to the healing arts, and making an appropriation therefor.

Bill read second time.

Consideration of Committee Amendments

The following amendments, proposed by the Committee on Health, were read, and adopted:

Amendment 1

On page 4, line 7, of the printed bill, as amended in Assembly June 18, 1975, after "Examiners", insert a comma.

Amendment 2

On page 11, line 8, strike out "one", and insert a comma.

Amendment 3

On page 11, line 9, strike out the comma.

Amendment 4

On page 11, line 10, after "Examiners", insert a comma.

Amendment 5

On page 11, line 25, after "committees", insert "; and".

Amendment 6

On page 26, line 23, after "6", insert "(commencing with Section 2210)".

Amendment 7

On page 27, line 17, strike out "county census tract", and insert "census county".

Amendment 8

On page 27, line 18, strike out "and", and insert "or".

Bill ordered reprinted, and to be re-referred to the Committee on Ways and Means

AUTHOR'S AMENDMENTS**Committee on Judiciary**

Assembly Chamber August 4, 1975

Mr. Speaker: The Chairman of your Committee on Judiciary reports.

Assembly Bill No. 22

With author's amendments with the recommendation Amend. and re-refer to the Committee on Judiciary

MILLER, Chairman

Assembly Bill No. 22—An act to amend Section 2361 of, and to add Sections 805 and 2191 3 to the Business and Professions Code, to add Section 3333 1 to, and to add Part 6 (commencing with Section 6000) to Division 4 of, the Civil Code, to repeal and add Section 340 5 of the Code of Civil Procedure, and to add Section 1858 7 to the Insurance Code, relating to medical malpractice.

Bill read second time.

Consideration of Author's Amendments

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted:

Amendment 1

In line 1 of the title of the printed bill, as amended in Assembly June 4, 1975, after "805", insert ", 2122.7".

Amendment 2

On page 4, between lines 13 and 14, insert

"SEC 15 Section 2122 7 is added to the Business and Professions Code, to read:

2122.7 Each licensed general or specialized hospital shall report to the board, in such format as the board shall prescribe, any instance where the privileges of a licensed physician admitted to the medical staff are revoked, limited, or restricted, and any instance where re-appointment to said staff is denied. Such report shall be made within 15 days after such action becomes final."

Amendment 3

On page 6, line 15, strike out "workmen's", and insert "workers".

Amendment 4

On page 10, line 20, strike out "SEC. 3", and insert "SEC. 5."

Amendment 5

On page 10, line 22, strike out "SEC. 4", and insert "SEC. 6."

Amendment 6

On page 11, line 5, strike out "SEC. 5.", and insert "SEC. 7."

Amendment 7

On page 11, line 8, after "policies", insert "of".

Bill ordered reprinted, and to be re-referred to the Committee on Judiciary.

ADJOURNMENT

At 11:57 a m, Speaker McCarthy declared the Assembly adjourned until 9 a m, Tuesday, August 5, 1975.

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNALTHIRTIETH LEGISLATIVE DAY
SEVENTY-NINTH CALENDAR DAY**IN ASSEMBLY**Assembly Chamber, Sacramento
Tuesday, August 5, 1975

The Assembly met at 10:06 a.m.

Hon. Walter M. Ingalls, Member of the Assembly, 68th District,
presiding

Chief Clerk James D. Driscoll at the Desk.

Assistant Clerk Ray Monday reading.

ROLL CALL

The roll was called, and the following answered to their names—76:

Alatorre	Coller	Keysor	Papan
Antonovich	Craven	Knox	Perno
Arnett	Cullen	Lancaster	Prilo
Badham	Davis	Lanterman	Ralph
Bane	Deddeh	Lewis	Robinson
Bannai	Dixon	Lockyer	Rosenthal
Berman	Duffy	MacDonald	Stegler
Beverly	Egeland	Maddy	Sieroty
Boatwright	Fenton	McAlister	Sutt
Briggs	Foran	McLennan	Thomas, Vincent
Brown	Goggin	McVittie	Thomas, William
Burke	Greene	Meade	Thuman
Calvo	Gualco	Miller	Torres
Carpenter	Hart	Mobley	Tucker
Chacon	Hayden	Montoya	Vasconcellos
Chappie	Hughes	Mori	Vicencia
Chel	Ingalls	Murphy	Wilson
Chimbole	Kapiloff	Nestande	Wornum
Cline	Keene	Nimmo	M. Speaker

Quorum present.

REGULAR BUSINESS DISPENSED WITH

By unanimous consent, the regular order of business of the Assembly was dispensed with for this legislative day.

LEAVES OF ABSENCE FOR THE DAY

The following Member was granted leave of absence for the day, because of illness:

Mr. Campbell, on request of Acting Speaker Ingalls.

The following Member was granted leave of absence for the day, on legislative business:

Mr. Z'berg, on request of Acting Speaker Ingalls.

The following Members were granted leaves of absence for the day, on personal business, and desired to waive their per diem:

Mr. Garamendi, on request of Acting Speaker Ingalls.

Mr. Warren, on request of Acting Speaker Ingalls.

NOTE: For letter explaining the absence of Mr. Z'berg on this day on legislative business pursuant to the Assembly Rules, see Assembly Daily Journal for the regular session for August 4, 1975, page 7827.

COMMUNICATIONS

Assembly Chamber, August 5, 1975

Mr. Speaker: Pursuant to your instructions, the Chief Clerk has examined:

Assembly Bill No. 5

Assembly Bill No. 22

And reports the same correctly engrossed.

JAMES D. DRISCOLL, Chief Clerk

Above bills re-referred to committee.

REPORTS OF STANDING COMMITTEES

Committee on Ways and Means

Assembly Chamber, August 5, 1975

Mr. Speaker: Your Committee on Ways and Means reports:

Assembly Bill No. 12

With the recommendation: Do pass,

FORAN, Chairman

Above bill ordered to second reading.

RECESS

At 10:07 a.m., Acting Speaker Ingalls declared the Assembly recessed.

REASSEMBLED

At 2:45 p.m., the Assembly reconvened.

Hon. Walter M. Ingalls, Member of the Assembly, 68th District, presiding.

ADJOURNMENT

At 2:46 p.m., Acting Speaker Ingalls declared the Assembly adjourned until 9 a.m., Wednesday, August 6, 1975.

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNAL

THIRTY-FIRST LEGISLATIVE DAY

EIGHTIETH CALENDAR DAY

IN ASSEMBLY

Assembly Chamber, Sacramento
 Wednesday, August 6, 1975

The Assembly met at 10:23 a m
 Hon Louis J. Papan, Speaker pro Tempore of the Assembly, pre-
 siding.

Chief Clerk James D. Driscoll at the Desk.

Assistant Clerk Ray Monday reading.

ROLL CALL

The roll was called, and the following answered to their names—79:

Alatorre	Collier	Keysor	Perino
Antonovich	Craven	Knox	Priolo
Arnett	Cullen	Lancaster	Ralph
Badham	Davis	Lanterman	Robinson
Bane	Deddeh	Lewis	Rosenthal
Bannai	Dixon	Lockyer	Siegler
Beiman	Duffy	MacDonald	Sieroty
Beverly	Egeland	Maddy	Suitt
Boatwright	Fenton	McAlister	Thomas, Vincent
Briggs	Foran	McLennan	Thomas, William
Brown	Garamendi	McVittie	Thurman
Burke	Goggin	Meade	Torres
Calvo	Greene	Miller	Tucker
Campbell	Gualco	Mobley	Vasconcellos
Carpenter	Hart	Moutoya	Vicencia
Chacon	Hayden	Mori	Warren
Chappie	Hughes	Murphy	Wilson
Chel	Ingalls	Nestande	Wornum
Chimbole	Kapiloff	Nimmo	Mr. Speaker
Cline	Keene	Papan	

Quorum present.

REGULAR BUSINESS DISPENSED WITH

By unanimous consent, the regular order of business of the Assembly was dispensed with for this legislative day.

LEAVES OF ABSENCE FOR THE DAY

The following Member was granted leave of absence for the day, on legislative business:

Mr. Z'berg, on request of Speaker pro Tempore Papan.

NOTE: For letter explaining the absence of Mr. Z'berg on this day on legislative business pursuant to the Assembly Rules, see Assembly Daily Journal for the regular session for August 4, 1975, page 7827.

**CONSIDERATION OF DAILY FILE
SECOND READING OF ASSEMBLY BILLS**

Assembly Bill No. 12—An act to add Article 7 (commencing with Section 11890) to Chapter 4 of Part 3 of Division 2 of the Insurance Code, relating to medical malpractice.

Bill read second time, and ordered to third reading.

RECESS

At 10:24 a.m., Speaker pro Tempore Papan declared the Assembly recessed.

REASSEMBLED

At 2:45 p.m., the Assembly reconvened.

Hon. Louis J. Papan, Speaker pro Tempore of the Assembly, presiding.

ADJOURNMENT

At 2:46 p.m., Speaker pro Tempore Papan declared the Assembly adjourned until 1 p.m., Thursday, August 7, 1975.

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNAL

THIRTY-SECOND LEGISLATIVE DAY

EIGHTY-FIRST CALENDAR DAY

IN ASSEMBLY

Assembly Chamber, Sacramento

Thursday, August 7, 1975

The Assembly met at 4:24 p m.

Hon. Leo T. McCarthy, Speaker of the Assembly, presiding.

Chief Clerk James D Driscoll at the Desk.

Assistant Clerk Ray Monday reading.

ROLL CALL

The roll was called, and the following answered to their names—79:

Alatorre	Collier	Keyser	Permo
Antonovich	Craven	Knox	Priolo
Arnett	Cullen	Lancaster	Ralph
Badham	Davis	Lanterman	Robinson
Bane	Deddeh	Lewis	Rosenthal
Bannai	Dixon	Lockyer	Siegler
Berman	Duffy	MacDonald	Sieroty
Beverly	Egeland	Maddy	Suitt
Boatwright	Fenton	McAlister	Thomas, Vincent
Briggs	Foran	McLennan	Thomas, William
Brown	Garamendi	McVittie	Thurman
Burke	Goggin	Meade	Torres
Calvo	Greene	Miller	Tucker
Campbell	Gualco	Mohley	Vasconcellos
Carpenter	Hart	Montoya	Vicencia
Chacon	Hayden	Mori	Warren
Chappie	Hughes	Murphy	Wilson
Chel	Ingalls	Nestande	Wornum
Chimbole	Kapiloff	Nimmo	Mr. Speaker
Clue	Keene	Papan	

Quorum present.

PRAYER

The following prayer was offered by the Chaplain, Father Leo McAllister:

We Come to You, Our God, Because we need You You have enriched us with so many blessings and attributes, but in times such as these we need Your help Despite our many years and efforts on this planet we still have wars, hunger, and disease Our efforts in this chamber may do little to solve the world's problems but they can do much to solve those of our state Help us, God, to bend to the task of healing, mending, and preserving—AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker McCarthy, Mr. Brown then led the Assembly in the pledge of allegiance to the Flag

MOTION TO DISPENSE WITH READING OF THE JOURNAL

Further reading of the Journal of the previous legislative day was dispensed with on motion of Mr. Calvo, seconded by Mr. Berman.

LEAVES OF ABSENCE FOR THE DAY

The following Member was excused for the day, and his per diem was waived:

Mr. Z'berg.

REPORTS OF STANDING COMMITTEES**Committee on Health**

Assembly Chamber, June 23, 1975

Mr. Speaker: Your Committee on Health reports.

Assembly Bill No. 4

With amendments with the recommendation Amend, do pass, as amended, and be re-referred to the Committee on Ways and Means.

KEENE, Chairman

Above bill ordered to second reading.

ADJOURNMENT

At 4:25 p.m., Speaker McCarthy declared the Assembly adjourned until 9 a.m., Monday, August 11, 1975.

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNAL

THIRTY-THIRD LEGISLATIVE DAY

EIGHTY-FIFTH CALENDAR DAY

IN ASSEMBLY

Assembly Chamber, Sacramento

Monday, August 11, 1975

The Assembly met at 10.33 a.m.

Hon. Leo T. McCarthy, Speaker of the Assembly, presiding.

Chief Clerk James D. Driscoll at the Desk.

Assistant Clerk Ray Monday reading.

ROLL CALL

The roll was called, and the following answered to their names—80:

Alatorre	Collier	Keyser	Permo
Antonovich	Craven	Knox	Priolo
Arnett	Cullen	Lancaster	Ralph
Badham	Davis	Lanterman	Robinson
Bane	Deddeh	Lewis	Rosenthal
Bannai	Dixon	Lockyer	Siegler
Berman	Duffy	MacDonald	Sieroty
Beverly	Egeland	Maddy	Suitt
Boatwright	Fenton	McAlister	Thomas, Vincent
Briggs	Foran	McLennan	Thomas, William
Brown	Garamendi	McVitte	Thurman
Burke	Goggin	Meade	Torres
Calvo	Greene	Miller	Tucker
Campbell	Gualco	Mobley	Vasconcellos
Carpenter	Hart	Montoya	Vicencia
Chacon	Hayden	Mori	Warren
Chappie	Hughes	Murphy	Wilson
Chel	Ingalls	Nestande	Wornum
Chimboke	Kapiloff	Nimmo	Z'berg
Cliae	Keene	Papua	Mr. Speaker

Quorum present,

PRAYER

The following prayer was offered by the Chaplain, Father Leo McAllister:

Father, We pray for the success of programs which are designed to help our brothers and sisters in need—the poor, the aged, the ill. Keep us mindful that they are created in Your image and thus possess a dignity unsurpassed in Your creation. Help us to respect that dignity and freedom with the utmost delicacy. Justice must precede our charity and not be confused with it. Save us in this endeavor from seeking personal advantage or dominion over those who are helped in their need.

Help us to plan in such a way that those in need will eventually be freed from their dependence on others and become self-sufficient—**AMEN.**

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker McCarthy, Mr. Vasconcellos then led the Assembly in the pledge of allegiance to the Flag.

MOTION TO DISPENSE WITH READING OF THE JOURNAL

Further reading of the Journal of the previous legislative day was dispensed with on motion of Mr. Calvo, seconded by Mr. MacDonald.

**CONSIDERATION OF DAILY FILE
SECOND READING OF ASSEMBLY BILLS**

Assembly Bill No. 4—An act to add Division 18 (commencing with Section 22000) to the Health and Safety Code, relating to health, and making an appropriation therefor.

Bill read second time.

Consideration of Committee Amendments

The following amendments, proposed by the Committee on Health, were read, and adopted:

Amendment 1

In line 1 of the heading of the printed bill, as amended in Assembly June 20, 1975, strike out "Assemblyman Goggin", and insert "Assemblymen Goggin and Duffy".

Amendment 2

In lines 2 and 3 of the title, strike out ", and making an appropriation therefor".

Amendment 3

On page 5, strike out lines 15 to 20, inclusive, and insert "licensed as a physician and surgeon pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code or a practitioner licensed pursuant to the Osteopathic Initiative Act."

Amendment 4

On page 5, line 40, after "years", insert "at the time of their appointment".

Amendment 5

On page 6, line 7, after "years", insert "at the time of his or her appointment".

Amendment 6

On page 6, line 8, strike out "should", and insert "shall".

Amendment 7

On page 6, line 9, after "administrator", insert "at the time of his or her appointment".

Amendment 8

On page 10, line 16, strike out "act", and insert "chapter".

Amendment 9

On page 10, line 36, strike out "said", and insert "such".

Amendment 10

On page 11, line 10, strike out "said", and insert "such".

Amendment 11

On page 11, line 31, strike out "evaluated", and insert "prescribed".

Amendment 12

On page 11, line 37, after the period, insert "Such proceedings shall be open to the public. Notice of the hearings shall be published at least 10 days in advance."

Amendment 13

On page 12, line 28, strike out "May", and insert "July".

Amendment 14

On page 13, strike out lines 5 to 10, inclusive.

Amendment 15

On page 13, line 11, strike out "SEC. 3", and insert "SEC. 2".

Bill ordered reprinted, and to be re-referred to the Committee on Ways and Means.

THIRD READING OF ASSEMBLY BILLS

Assembly Bill No. 12 (Bane)—An act to add Article 7 (commencing with Section 11890) to Chapter 4 of Part 3 of Division 2 of the Insurance Code, relating to medical malpractice.

Bill read third time, and passed by the following vote:

AYES—71

Alatorre	Cline	Knox	Ralph
Antonovich	Craven	Lancaster	Robinson
Arnett	Cullen	Lanterman	Rosenthal
Badham	Davis	Lewis	Siegler
Bane	Deddeh	Lockyer	Stutt
Bannai	Dixon	MacDonald	Thomas, Vincent
Berman	Duffy	Maddy	Thomas, William
Beverly	Fenton	McAlister	Thurman
Boatwright	Foran	McVittie	Torres
Briggs	Goggin	Miller	Tucker
Burke	Greene	Mobley	Vasconcellos
Calvo	Gualco	Montoya	Vicencia
Campbell	Hayden	Murphy	Warren
Carpenter	Hughes	Nestande	Wilson
Chacon	Ingalls	Nimmo	Wornum
Chappie	Kapiloff	Papan	Z'berg
Chel	Keene	Perino	Mr. Speaker
Chumbole	Keyser	Prilo	

NOES—None

Bill ordered transmitted to the Senate.

ADJOURNMENT

At 10:37 a.m., Speaker McCarthy declared the Assembly adjourned until 9 a.m., Tuesday, August 12, 1975.

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNAL

THIRTY-FOURTH LEGISLATIVE DAY

EIGHTY-SIXTH CALENDAR DAY

IN ASSEMBLY

Assembly Chamber, Sacramento
Tuesday, August 12, 1975

The Assembly met at 9 56 a.m.

Hon. Louis J. Papan, Speaker pro Tempore of the Assembly, presiding.

Chief Clerk James D. Driscoll at the Desk.

Assistant Clerk Ray Monday reading.

ROLL CALL

The roll was called, and the following answered to their names—79:

Alatorre	Collier	Knox	Priolo
Antonovich	Craven	Lancaster	Ralph
Arnett	Cullen	Lanterman	Robinson
Badham	Davis	Lewis	Rosenthal
Bane	Deledeh	Lockyer	Siegler
Bannai	Duffy	MacDonald	Sieroty
Berman	Egelund	Maddy	Sutt
Bevelly	Fenton	McAlister	Thomas, Vincent
Boatwright	Foran	McLennan	Thomas, William
Briggs	Garamendi	McVittie	Thurman
Brown	Goggin	Meade	Torres
Burke	Greene	Miller	Tucker
Calvo	Gualco	Mobley	Vasconcellos
Campbell	Hart	Montoya	Vicencia
Carpenter	Hayden	Mori	Warren
Chacon	Hughes	Murphy	Wilson
Chappie	Ingalls	Nestande	Wornum
Chel	Kapiloff	Nimmo	Z'berg
Chimbole	Keene	Papan	Mr. Speaker
Cline	Keyser	Perino	

Quorum present.

REGULAR BUSINESS DISPENSED WITH

By unanimous consent, the regular order of business of the Assembly was dispensed with for this legislative day.

LEAVES OF ABSENCE FOR THE DAY

The following Member was granted leave of absence for the day, because of illness:

Mr. Dixon, on request of Speaker pro Tempore Papan.

COMMUNICATIONS

Assembly Chamber, August 12, 1975

Mr. Speaker: Pursuant to your instructions, the Chief Clerk has examined.

Assembly Bill No. 4

And reports the same correctly engrossed.

JAMES D DRISCOLL, Chief Clerk

Above bill re-referred to committee.

RECESS

At 9 57 a.m., Speaker pro Tempore Papan declared the Assembly recessed.

REASSEMBLED

At 2-45 p.m., the Assembly reconvened

Hon. Louis J. Papan, Speaker pro Tempore of the Assembly, presiding.

REPORTS OF STANDING COMMITTEES**Committee on Ways and Means**

Assembly Chamber, August 12, 1975

Mr Speaker: Your Committee on Ways and Means reports:

Assembly Bill No. 35

With amendments with the recommendation: Amend, and do pass, as amended.

FORAN, Chairman

Above bill ordered to second reading.

Assembly Chamber, August 12, 1975

Mr Speaker: Your Committee on Ways and Means reports:

Assembly Bill No. 10

Assembly Bill No. 28

With the recommendation: Do pass.

FORAN, Chairman

Above bills ordered to second reading.

ADJOURNMENT

At 2:46 p.m., Speaker pro Tempore Papan declared the Assembly adjourned until 9 a.m., Wednesday, August 13, 1975.

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNAL

THIRTY-FIFTH LEGISLATIVE DAY

EIGHTY-SEVENTH CALENDAR DAY

IN ASSEMBLY

Assembly Chamber, Sacramento
 Wednesday, August 13, 1975

The Assembly met at 10 31 a m
 Hon Louis J. Papan, Speaker pro Tempore of the Assembly, pre-
 siding

Chief Clerk James D. Driscoll at the Desk.

Assistant Clerk Ray Monday reading.

ROLL CALL

The roll was called, and the following answered to their names—77:

Alatorre	Cullen	Knox	Perino
Antonovich	Davis	Lancaster	Priolo
Arnett	Deddeh	Lanterman	Ralph
Badham	Dixon	Lewis	Robinson
Bane	Duffy	Lockyer	Rosenthal
Bannai	Egeland	MacDonald	Siegler
Beverly	Fenton	Maddy	Sieroty
Boatwright	Foran	McAlister	Thomas, Vincent
Brown	Gaiamendi	McLennan	Thomas, William
Buike	Goggin	McVittie	Thurman
Calvo	Greene	Meade	Tories
Campbell	Gualco	Miller	Tucker
Carpenter	Hart	Mobley	Vasconcellos
Chacon	Hayden	Montoya	Vicencia
Chappie	Hughes	Mori	Warren
Chel	Ingalls	Murphy	Wilson
Chumble	Kapiloff	Nestande	Wornum
Cline	Keene	Nimmo	Z'berg
Collier	Keosor	Papan	Mr. Speaker
Ciaven			

Quorum present.

REGULAR BUSINESS DISPENSED WITH

By unanimous consent, the regular order of business of the Assem-
 bly was dispensed with for this legislative day.

LEAVES OF ABSENCE FOR THE DAY

The following Member was granted leave of absence for the day, because of illness:

Mr. Briggs, on request of Speaker pro Tempore Papan

The following Members were granted leaves of absence for the day, on personal business, and desired to waive their per diem:

Mr. Berman, on request of Speaker pro Tempore Papan.

Mr. Suitt, on request of Speaker pro Tempore Papan.

NOTE: For letter explaining the absence of Mr. Berman on this day, see Assembly Daily Journal for the regular session for this day.

**CONSIDERATION OF DAILY FILE
SECOND READING OF ASSEMBLY BILLS**

Assembly Bill No. 35—An act to add Section 14110.4 to the Welfare and Institutions Code, relating to Medi-Cal, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

Bill read second time.

Consideration of Committee Amendments

The following amendments, proposed by the Committee on Ways and Means, were read, and adopted:

Amendment 1

In line 2 of the title of the printed bill, as amended in Assembly June 26, 1975, strike out “, making an appropriation therefor,”; strike out lines 3 and 4, and insert a period.

Amendment 2

On page 2, strike out lines 3 to 15, inclusive, and insert “14110.4. Effective August 4, 1975, Medi-Cal basic per patient-day payment for skilled nursing facility care and intermediate facility care shall not be less than the rates in effect in licensed bed capacity categories described in the department’s regulations.”

Amendment 3

On page 2, line 17, after “care”, insert “and intermediate facility care”.

Amendment 4

On page 2, line 22, after “facilities”, insert “and for intermediate facility care”.

Amendment 5

On page 3, line 2, after “review”, insert “Such consumer price index increases shall reflect changes occurring up to the date the new rates are to be implemented.”

Amendment 6

On page 3, strike out lines 26 to 35, inclusive, and insert

"Such rates and any changes in such rates pursuant to this section shall be further adjusted as determined by the department when a comprehensive health planning area is affected by economic factors which merit additional reimbursement. The department, upon request of 70 percent of the providers of skilled nursing facilities or intermediate facility care in a comprehensive health planning area, shall conduct a study of costs in that area to determine whether there exists an area cost differential.

The department shall report to the Legislature by February 1 of each year the result of its cost review and the proposed rates to be paid for skilled nursing facility care and intermediate facility care in the fiscal year commencing with July 1 of each year."

Amendment 7

On page 3, line 37, after "facility" ", insert "and an "intermediate care facility" "".

Amendment 8

On page 3, strike out lines 39 and 40; and strike out page 4.

Bill ordered reprinted, and returned to the second reading file.

Assembly Bill No. 10—An act to add Article 8 (commencing with Section 1325) to Chapter 2 of Division 2 of the Health and Safety Code, relating to health, and declaring the urgency thereof, to take effect immediately.

Bill read second time, and ordered to third reading.

Assembly Bill No. 23—An act to add and repeal Section 11587 of the Insurance Code, relating to malpractice insurance, and declaring the urgency thereof, to take effect immediately.

Bill read second time, and ordered to third reading.

RECESS

At 10:32 a.m., Speaker pro Tempore Papan declared the Assembly recessed.

REASSEMBLED

At 2:45 p.m., the Assembly reconvened.

Hon. Louis J. Papan, Speaker pro Tempore of the Assembly, presiding.

ADJOURNMENT

At 2:46 p.m., Speaker pro Tempore Papan declared the Assembly adjourned until 1 p.m., Thursday, August 14, 1975.

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNALTHIRTY-SIXTH LEGISLATIVE DAY
EIGHTY-EIGHTH CALENDAR DAY**IN ASSEMBLY**Assembly Chamber, Sacramento
Thursday, August 14, 1975

The Assembly met at 4 41 p m.

Hon Leo T McCarthy, Speaker of the Assembly, presiding.

Chief Clerk James D. Driscoll at the Desk.

Assistant Clerk Ray Monday reading

ROLL CALL

The roll was called, and the following answered to their names—79:

Alatorre	Craven	Knox	Piolo
Antonovich	Cullen	Lanester	Ralph
Arnett	Davis	Lanteiman	Robinson
Bane	Deddeh	Lewis	Rosenthal
Bannai	Dixon	Locker	Sieger
Berman	Duffy	McDonald	Sietoty
Beverly	Egeland	Maddy	Sutt
Boatwright	Fenton	McAlister	Thomas, Vincent
Biggs	Foran	McLennan	Thomas, William
Brown	Garamendi	McVittie	Thurman
Burke	Goggin	Meade	Totes
Calvo	Greene	Miller	Tucker
Campbell	Gualco	Mobley	Vasconcellos
Carpenter	Hart	Montoya	Ventura
Chacon	Hayden	Mori	Warren
Chappie	Hughes	Murphy	Wilson
Chel	Ingalls	Nestande	Wornum
Chimbole	Kapiloff	Nimmo	Zberg
Clue	Keene	Papan	Mr Speaker
Collier	Keyser	Petino	

Quorum present.

PRAYER

The following prayer was offered by the Chaplain, Father Leo McAllister:

God, Our Father, You speak in silence, and all languages interpret You. You are the truth of all words, their permanence and their comfort, and every man who listens with an open mind can hear You in his own language and in his own life. Put words into our mouths, then, that comfort and shed light, make us alive to justice and to right, groan in us for a new creation, guide our hearts and our faith, let our thoughts and our labors be fruitful and give us the bread of peace. —AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker McCarthy, Mr Collier then led the Assembly in the pledge of allegiance to the Flag

MOTION TO DISPENSE WITH READING OF THE JOURNAL

Further reading of the *Journal* of the previous legislative day was dispensed with on motion of Mr Beverly, seconded by Mr Beruan.

LEAVES OF ABSENCE FOR THE DAY

The following Member was granted leave of absence for the day, on personal business, and desired to waive his per diem:

Mr. Badham, on request of Speaker pro Tempore Papan.

COMMUNICATIONS

Assembly Chamber, August 14, 1975

Mr Speaker: Pursuant to your instructions, the Chief Clerk has examined

Assembly Bill No. 35

And reports the same correctly engrossed.

JAMES D DRISCOLL, Chief Clerk

Above bill ordered returned to second reading file.

REPORTS OF STANDING COMMITTEES**Committee on Ways and Means**

Assembly Chamber, August 12, 1975

Mr Speaker: Your Committee on Ways and Means reports

Assembly Bill No. 5

With amendments with the recommendation: Amend, and do pass, as amended

FORAN, Chairman

Above bill ordered to second reading

CONSIDERATION OF DAILY FILE**ASSEMBLY BILLS RETURNED TO SECOND READING FILE
PURSUANT TO THE RULES**

Pursuant to the Assembly Rules, the following Assembly bill was this day on the second reading file:

Assembly Bill No. 35, ordered to third reading

THIRD READING OF ASSEMBLY BILLS

Assembly Bill No. 10 (Goggin)—An act to add Article 8 (commencing with Section 1325) to Chapter 2 of Division 2 of the Health and Safety Code, relating to health, and declaring the urgency thereof, to take effect immediately.

Bill read third time.

Urgency Clause

Urgency clause read, and refused adoption by the following vote:

AYES—21

Bane	Greene	Miller	Sieroty
Berman	Gualco	Papan	Thurman
Boatwright	Kapiloff	Ralph	Wilson
Calvo	Keene	Rosenthal	Woznum
Dixon	McAlister	Siegler	Mr. Speaker
Goggin			

NOES—49

Alatorre	Craven	Keysor	Montoya
Antonovich	Cullen	Knox	Murphy
Arnett	Davis	Launcester	Nestande
Bannai	Deddeh	Lauterman	Nimmo
Briggs	Duffy	Lewis	Petino
Brown	Egeland	Lockyer	Priolo
Burke	Fenton	MacDonald	Robinson
Campbell	Foran	Maddy	Thomas, Vincent
Carpenter	Garamendi	McLennan	Thomas, William
Chappie	Hatt	McVittie	Torres
Chef	Hayden	Meade	Vasconcellos
Chimbole	Hughes	Mobley	Vicencia
Collier			

The question being on the passage of the bill.

Bill refused passage by the following vote:

AYES—21

Bane	Greene	Miller	Sieroty
Berman	Gualco	Papan	Thurman
Boatwright	Kapiloff	Ralph	Wilson
Calvo	Keene	Rosenthal	Woznum
Dixon	McAlister	Siegler	Mr. Speaker
Goggin			

NOES—49

Alatorre	Craven	Keysor	Montoya
Antonovich	Cullen	Knox	Murphy
Arnett	Davis	Launcester	Nestande
Bannai	Deddeh	Lauterman	Nimmo
Briggs	Duffy	Lewis	Petino
Brown	Egeland	Lockyer	Priolo
Burke	Fenton	MacDonald	Robinson
Campbell	Foran	Maddy	Thomas, Vincent
Carpenter	Garamendi	McLennan	Thomas, William
Chappie	Hatt	McVittie	Torres
Chef	Hayden	Meade	Vasconcellos
Chimbole	Hughes	Mobley	Vicencia
Collier			

Speaker pro Tempore Presiding

At 5.10 p m , Hon Louis J Papan, 19th District, presiding

Assembly Bill No. 28 (Maddy)—An act to add and repeal Section 11587 of the Insurance Code, relating to malpractice insurance, and declaring the urgency thereof, to take effect immediately.

Bill read third time.

Urgency Clause

Urgency clause read, and adopted by the following vote:

AYES—72

Alatorre	Craven	Keysor	Perino
Antonovich	Cullen	Knox	Priolo
Bane	Davis	Lewis	Ralph
Bannat	Deddeh	Locker	Robinson
Berman	Dixon	MacDonald	Rosenthal
Beverly	Duffy	Maddy	Siegler
Boatwright	Egeland	McAlister	Sietoty
Briggs	Fenton	McLennan	Stutt
Brown	Garamendi	McVittie	Thomas, Vincent
Burke	Goggin	Meade	Thomas, William
Calvo	Greene	Miller	Thurman
Campbell	Gualco	Mobley	Torres
Carpenter	Hart	Montoya	Vasconcellos
Chacon	Havden	Mori	Vicencia
Chappie	Hughes	Murphy	Wilson
Chel	Ingalls	Nestande	Wornum
Chimbole	Kapiloff	Nimmo	Z'berg
Collier	Keene	Papan	Mt. Speaker

NOES—3

Arnett	Foran	Lancaster
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The question being on the passage of the bill.

Bill passed by the following vote:

AYES—72

Alatorre	Craven	Keysor	Perino
Antonovich	Cullen	Knox	Priolo
Bane	Davis	Lewis	Ralph
Bannat	Deddeh	Locker	Robinson
Berman	Dixon	MacDonald	Rosenthal
Beverly	Duffy	Maddy	Siegler
Boatwright	Egeland	McAlister	Sietoty
Briggs	Fenton	McLennan	Stutt
Brown	Garamendi	McVittie	Thomas, Vincent
Burke	Goggin	Meade	Thomas, William
Calvo	Greene	Miller	Thurman
Campbell	Gualco	Mobley	Torres
Carpenter	Hart	Montoya	Vasconcellos
Chacon	Havden	Mori	Vicencia
Chappie	Hughes	Murphy	Wilson
Chel	Ingalls	Nestande	Wornum
Chimbole	Kapiloff	Nimmo	Z'berg
Collier	Keene	Papan	Mt. Speaker

NOES—3

Arnett	Foran	Lancaster
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Bill ordered transmitted to the Senate.

ADJOURNMENT

At 5 23 p m., Speaker pro Tempore Papan declared the Assembly adjourned until 11 a m., Friday, August 15, 1975.

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNAL

THIRTY-SEVENTH LEGISLATIVE DAY

EIGHTY-NINTH CALENDAR DAY

IN ASSEMBLY

Assembly Chamber, Sacramento
Friday, August 15, 1975

The Assembly met at 11 56 a m.

Hon Leo T. McCarthy, Speaker of the Assembly, presiding

Chief Clerk James D. Driscoll at the Desk.

Assistant Clerk Ray Monday reading.

ROLL CALL

The roll was called, and the following answered to their names—76:

Alatorre	Cline	Keene	Papan
Antonovich	Collier	Knox	Perino
Arnett	Craven	Lancaster	Prilo
Badham	Cullen	Lanterman	Ralph
Bane	Davis	Lewis	Robinson
Banna	Deddeh	Lockyer	Rosenthal
Beiman	Dixon	MacDonald	Siegler
Beverly	Duffy	Maddy	Sieroty
Boatwright	Egeland	McAlister	Snitt
Biggs	Fenton	McLennan	Thomas, Vincent
Blown	Foran	McVittie	Thomas, William
Burke	Garamendi	Meade	Thurman
Calvo	Goggins	Miller	Torres
Campbell	Greene	Mobley	Vasconcellos
Carpenter	Gualco	Montoya	Vicencia
Chacon	Hart	Mori	Wilson
Chappie	Hayden	Murphy	Wornum
Chel	Hughes	Nestande	Z'berg
Chimbole	Kapiloff	Nimmo	Mr. Speaker

Quorum present.

PRAYER

The following prayer was offered by the Chaplain, Father Leo McAllister:

Lord, Make us always conscious of our purpose and usefulness in this world. Help us to see and use new opportunities to make all of us more truly human in this period in history. May we make what is still void and uninhabitable a place fit to live in, and what is meaningless and inhuman bear fruit and give happiness. Help us to make a new world of service and peace.—AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker McCarthy, Mr Hart then led the Assembly in the pledge of allegiance to the Flag

MOTION TO DISPENSE WITH READING OF THE JOURNAL

By unanimous consent, further reading of the Journal of the previous legislative day was dispensed with

LEAVES OF ABSENCE FOR THE DAY

The following Member was granted leave of absence for the day, because of illness:

Mr. Tucker, on request of Speaker McCarthy.

The following Members were granted leaves of absence for the day, on legislative business:

Mr Ingalls, on request of Speaker McCarthy

Mr. Warren, on request of Speaker McCarthy.

The following Member was granted leave of absence for the day, on personal business, and desired to waive his *per diem*.

Mr. Keysor, on request of Speaker McCarthy.

NOTE For letters explaining the absences of Messrs Ingalls and Warren on this day on legislative business pursuant to the Assembly Rules, see Assembly Daily Journal for the regular session for this day.

**CONSIDERATION OF DAILY FILE
SECOND READING OF ASSEMBLY BILLS**

Assembly Bill No. 5—An act to amend Sections 125 5, 2100, 2101, 2119, 2361, 2361 5, 2362, 2364, 2372 5, 2436, 2454, and 2458 of, to add Article 11 (commencing with Section 800) to Chapter 1 of Division 2 of, Sections 2100 5, 2100 6, 2100 7, 2100 8, 2101 5, 2122 to, Article 2 3 (commencing with Section 2123) to Chapter 5 of Division 2 of, and Sections 2372, 2372 1, and 2458 5 to, and to repeal Article 11 (commencing with Section 800) of Chapter 1 of Division 2 of, Article 2 3 (commencing with Section 2123) of Chapter 5 of Division 2 of, and Section 2372 of, the Business and Professions Code, and to add Section 14132 5 to the Welfare and Institutions Code, relating to the healing arts, and making an appropriation therefor.

Bill read second time.

Consideration of Committee Amendments

The following amendments, proposed by the Committee on Ways and Means, were read, and adopted.

Set No. 1

Amendment 1

In line 12 of the title of the printed bill, as amended in Assembly August 5, 1975, strike out “, and making an appropriation therefor”.

Amendment 2

On page 25, strike out lines 36 to 40, inclusive; on page 26, strike out line 1, and insert

"SEC 25. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be an appropriation made by this act because the additional net costs, if any, imposed on local government by this act are insignificant in nature and will not cause any financial burden on local government."

Set No. 2**Amendment 1**

On page 25 of the printed bill, as amended in Assembly August 4, 1975, between lines 35 and 36, insert

"This section shall have no force and effect after January 1, 1979. The Legislative Analyst shall report to the Legislature by August 1, 1978, on the extent to which the number of physicians practicing and taking Medi-Cal patients in underserved areas has increased as a result of the enactment of this section."

Bill ordered reprinted, and returned to the second reading file.

MESSAGES FROM THE SENATE

Senate Chamber, August 14, 1975

Mr. Speaker: I am directed to inform your honorable body that the Senate on this day passed:

Senate Bill No. 1

Senate Bill No. 7

DARRYL R. WHITE, Secretary of the Senate
By John W. Rovane, Chief Assistant Secretary

FIRST READING AND REFERENCE OF SENATE BILLS

The following bills were read the first time, and ordered held at the Desk:

Senate Bill No. 1—An act to amend Sections 125 5, 2100, 2101, 2116, 2119, 2361, 2361 5, 2362, 2364, 2372 5, 2436, 2454, 2456, and 2458 of, to add Sections 2100 5, 2100 6, 2100 7, 2100 8, 2101 5, 2101 6, 2122, 2372, and 2372 1 to, to add Article 11 (commencing with Section 800) to Chapter 1 of Division 2 of, to add Article 2 3 (commencing with Section 2123) and Article 2 4 (commencing with Section 2124 5) to Chapter 5 of Division 2 of, to repeal Section 2372 of, to repeal Article 11 (commencing with Section 800) of Chapter 1 of Division 2 of, and to repeal Article 2 3 (commencing with Section 2123) of Chapter 5 of Division 2 of, the Business and Professions Code, to add Article 5 (commencing with Section 3362) to Chapter 2 of Title 2 of Part 1 of Division 4 of the Civil Code, to repeal and add Section 340 5 of, and to add Chapter 5 (commencing with Section 364) to Title 2 of Part 2 of the Code of Civil Procedure, to add Section 1159 to the Evidence Code, and to add and repeal Chapter 5 (commencing with Section 11890) to Part 3 of Division 2 of the Insurance Code, relating to malpractice.

Senate Bill No. 7—An act to amend Sections 125 5, 2100, 2101, 2116, 2119, 2361, 2361 5, 2362, 2364, 2372 5, 2436, 2454, 2456, and 2458 of, to add Sections 2100 5, 2100 6, 2100 7, 2100 8, 2101 5, 2101 6, 2122, 2361 3, 2372, and 2372 1 to, to add Article 11 (commencing with Section 800) to Chapter 1 of Division 2 of, to add Article 2 3 (commencing with Section 2123) and Article 2 4 (commencing with Section 2124.5) to Chapter 5 of Division 2 of, to add Article 8 5 (commencing with Section 6146) to Chapter 4 of Division 3 of, to repeal Section 2372 of, to repeal Article 11 (commencing with Section 800) of Chapter 1 of Division 2 of, and to repeal Article 2.3 (commencing with Section 2123) of Chapter 5 of Division 2 of, the Business and Professions Code; to amend Section 43 8 of, and to add Section 3333 1 to the Civil Code, to amend Sections 340 5 and 1094 5, of and to add Section 667 7 to, the Code of Civil Procedure; to add Division 17 (commencing with Section 21005) to the Health and Safety Code; and to add Sections 11587 and 11588 to the Insurance Code, relating to health, and making an appropriation therefor.

REFERENCE OF BILLS TO COMMITTEE

Pursuant to the Assembly Rules, the following bills were referred to committee:

<i>Senate</i>		<i>Committee</i>
<i>Bill No.</i>		
1	-----	Judiciary
7	-----	Judiciary

RECESS

At 11.57 a.m., Speaker McCarthy declared the Assembly recessed.

REASSEMBLED

At 12 m., the Assembly reconvened
Hon. Leo T. McCarthy, Speaker of the Assembly, presiding.

REQUEST FOR UNANIMOUS CONSENT

Mr. Goggin was granted unanimous consent that the Desk be held open today to receive the report of the Committee on Ways and Means relative to Assembly Bill No. 4, that the bill be taken up, without reference to file, for purpose of second reading and adoption of committee amendments, and that the bill be returned to the third reading file for the next legislative day.

RECESS

At 12 01 p.m., Speaker McCarthy declared the Assembly recessed

REASSEMBLED

At 3 23 p.m., the Assembly reconvened.
Hon. Leo T. McCarthy, Speaker of the Assembly, presiding.

REPORTS OF STANDING COMMITTEES**Committee on Ways and Means**

Assembly Chamber, August 15, 1975

Mr Speaker: Your Committee on Ways and Means reports:

Assembly Bill No 4

With amendments with the recommendation: Amend, and do pass, as amended

FORAN, Chairman

**SECOND READING OF ASSEMBLY BILL NO. 4—
BY UNANIMOUS CONSENT**

Pursuant to unanimous consent granted earlier this day, the following bill was taken up, without reference to file, for purpose of second reading, and adoption of committee amendments

Assembly Bill No. 4—An act to add Division 18 (commencing with Section 22000) to the Health and Safety Code, relating to health

Bill read second time

Consideration of Committee Amendments

The following amendments, proposed by the Committee on Ways and Means, were read, and adopted:

Amendment 1

On page 11, between lines 26 and 27, insert

“CHAPTER 6. FEES

22070. The Director of Health shall establish a schedule of fees to be collected by the office from professional and institutional providers who utilize the services of the office. The fees shall be established in an amount to fully reimburse the department, including, but not limited to the office, for its costs in carrying out the provisions of this division.”

Bill ordered reprinted, and to be returned to the third reading file.

ADJOURNMENT

At 3 24 p m, Speaker McCarthy declared the Assembly adjourned until 9 a m, Monday, August 18, 1975.

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNAL

THIRTY-EIGHTH LEGISLATIVE DAY

NINETY-SECOND CALENDAR DAY

IN ASSEMBLY

Assembly Chamber, Sacramento
Monday, August 18, 1975

The Assembly met at 12:11 p.m.

Hon Louis J Papan, Speaker pro Tempore of the Assembly, presiding

Chief Clerk James D Driscoll at the Desk.

Assistant Clerk Ray Monday reading

ROLL CALL

The roll was called, and the following answered to their names—76:

Alatorre	Cullen	Knox	Peimo
Antonovich	Davis	Laucaster	Priolo
Bane	Deidleh	Lauterman	Ralph
Bannai	Dixon	Lewis	Rosenthal
Berman	Duffy	Lockyer	Siegler
Beyerly	Egeland	MacDonald	Sieroty
Boatwright	Fenton	Maddy	Snitt
Briggs	Foran	McAlister	Thomas, Vincent
Brown	Garamendi	McLennan	Thomas, William
Burke	Goggin	McVittie	Thuman
Calvo	Greene	Meade	Torres
Campbell	Gunleo	Miller	Tucker
Carpenter	Hart	Mobley	Vasconcellos
Chappie	Havden	Montoya	Vicencia
Chel	Hughes	Mou	Warten
Chimbole	Ingalls	Murphy	Wilson
Cline	Kapiloff	Nestande	Wornum
Collier	Kreene	Nimmro	Z'berg
Craven	Keyser	Papan	Mr Speaker

Quorum present.

PRAYER

The following prayer was offered by the Chaplain, Father Leo McAllister:

Father, In these days of new ideas, some uplifting, some confusing, in days of man's awakening to his own immense potential and his creative vocation, let us not forget that You are the source of life, and of existence.

Let us not forget that all that we discover in man and in his world is a new facet of Your love, a new reason why we must work in love and in haste towards the creation of a world of brothers and sisters living in peace and plenty —AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker pro Tempore Papan, Mr Wilson then led the Assembly in the pledge of allegiance to the Flag.

MOTION TO DISPENSE WITH READING OF THE JOURNAL

Further reading of the Journal of the previous legislative day was dispensed with on motion of Mr Siegler, seconded by Mr Perino.

LEAVES OF ABSENCE FOR THE DAY

The following Members were granted leaves of absence for the day, because of illness:

Mr Arnett, on request of Speaker pro Tempore Papan.

Mr Chacon, on request of Speaker pro Tempore Papan.

The following Members were granted leaves of absence for the day, on personal business, and desired to waive their per diem:

Mr Badham, on request of Speaker pro Tempore Papan.

Mr Robinson, on request of Speaker pro Tempore Papan.

NOTE: For letter explaining the absence of Mr Badham on this day, see Assembly Daily Journal for the regular session for this day

COMMUNICATIONS

Assembly Chamber, August 18, 1975

Mr Speaker: Pursuant to your instructions, the Chief Clerk has examined.

Assembly Bill No 5

And reports the same correctly engrossed.

JAMES D DRISCOLI, Chief Clerk

Above bill ordered returned to second reading file.

Assembly Chamber, August 18, 1975

Mr Speaker: Pursuant to your instructions, the Chief Clerk has examined:

Assembly Bill No 4

And reports the same correctly engrossed.

JAMES D DRISCOLI, Chief Clerk

Above bill ordered to third reading.

**CONSIDERATION OF DAILY FILE
ASSEMBLY BILLS RETURNED TO SECOND READING FILE
PURSUANT TO THE RULES**

Pursuant to the Assembly Rules, the following Assembly bill was this day on the second reading file:

Assembly Bill No. 5, ordered to third reading.

ADJOURNMENT

At 12:12 p m , Speaker pro Tempore Papan declared the Assembly adjourned until 9 a m , Tuesday, August 19, 1975.

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

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CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNALTHIRTY-NINTH LEGISLATIVE DAY
NINETY-THIRD CALENDAR DAY**IN ASSEMBLY**Assembly Chamber, Sacramento
Tuesday, August 19, 1975

The Assembly met at 10 58 a m.

Hon Bill Lockyer, Member of the Assembly, 14th District, presiding
Chief Clerk James D Driscoll at the Desk.

Assistant Clerk Ray Monday reading.

ROLL CALL

The roll was called, and the following answered to their names—78.

Alatorre	Craven	Knox	Perino
Antonovich	Cullen	Lancaster	Priolo
Badham	Davis	Lanterman	Ralph
Bane	Deddeh	Lewis	Rosenthal
Bannai	Dixon	Lockyer	Siegler
Bernan	Duffy	MacDonald	Sieroty
Beverly	Egelund	Maddy	Sutt
Bontwright	Fenton	McAlister	Thomas, Vincent
Briggs	Foran	McInnan	Thomas, William
Brown	Garamendi	McVittie	Thurman
Burke	Goggin	Meade	Tories
Calvo	Greene	Miller	Tucker
Campbell	Gualeo	Mobley	Vasconcellos
Carpenter	Hart	Montoya	Vicente
Chacon	Hayden	Mori	Watten
Chappie	Hughes	Murphy	Wilson
Chel	Ingalls	Nestande	Wornum
Chimbole	Kapiloff	Nimmo	Z'berg
Chine	Keene	Papan	Mr Speaker
Collier	Keyser		

Quorum present.

REGULAR BUSINESS DISPENSED WITH

By unanimous consent, the regular order of business of the Assembly was dispensed with for this legislative day.

LEAVES OF ABSENCE FOR THE DAY

The following Member was granted leave of absence for the day, because of illness:

Mr. Arnett, on request of Acting Speaker Lockyer.

The following Member was granted leave of absence for the day, on personal business, and desired to waive his per diem:

Mr. Robinson, on request of Acting Speaker Lockyer.

ADJOURNMENT

At 10.59 a m, Acting Speaker Lockyer declared the Assembly adjourned until 9 a m, Wednesday, August 20, 1975.

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNALFORTIETH LEGISLATIVE DAY
NINETY-FOURTH CALENDAR DAY**IN ASSEMBLY**Assembly Chamber, Sacramento
Wednesday, August 20, 1975

The Assembly met at 10.52 a m

Hon Louis J Papan, Speaker pro Tempore of the Assembly, presiding

Chief Clerk James D. Driscoll at the Desk.

Assistant Clerk Ray Monday reading.

ROLL CALL

The roll was called, and the following answered to their names—77:

Antonovich	Davis	Lancaster	Priolo
Badham	Deddeh	Lanteiman	Ralph
Bane	Dixon	Lewis	Robinson
Bannai	Duffy	Lockyer	Rosenthal
Berman	Egeland	MacDonald	Siegler
Beverly	Fenton	Maddy	Sieroty
Boatwright	Foran	McAlister	Sutt
Briggs	Garamendi	McLennan	Thomas, Vincent
Buake	Goggia	McVittie	Thomas, William
Calvo	Greene	Meade	Thurman
Campbell	Gualco	Miller	Torres
Carpenter	Hart	Mobley	Tucker
Chacon	Hayden	Montoya	Vasconcellos
Chappie	Hughes	Mori	Vicencia
Chel	Ingalls	Murphy	Warren
Chimbole	Kapiloff	Nestande	Wilson
Cline	Keene	Nimmo	Wornum
Colher	Keyser	Papan	Z'berg
Craven	Knox	Perino	Mr. Speaker
Cullen			

Quorum present.

REGULAR BUSINESS DISPENSED WITH

By unanimous consent, the regular order of business of the Assembly was dispensed with for this legislative day.

LEAVES OF ABSENCE FOR THE DAY

The following Members were granted leaves of absence for the day, because of illness:

Mr. Alatorre, on request of Speaker pro Tempore Papan.

Mr. Arnett, on request of Speaker pro Tempore Papan

The following Member was excused for the day, and his per diem was waived:

Mr. Brown.

ADJOURNMENT

At 2:46 p.m., Speaker pro Tempore Papan declared the Assembly adjourned until 1 p.m., Thursday, August 21, 1975.

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNAL

FORTY-FIRST LEGISLATIVE DAY

NINETY-FIFTH CALENDAR DAY

IN ASSEMBLY

Assembly Chamber, Sacramento
Thursday, August 21, 1975

The Assembly met at 6 15 p m

Hon Leo T McCarthy, Speaker of the Assembly, presiding.

Chief Clerk James D Driscoll at the Desk.

Assistant Clerk Ray Monday reading.

ROLL CALL

The roll was called, and the following answered to their names—80:

Alatorre	Colher	Keysor	Perino
Antonovich	Craven	Knox	Piolo
Arnett	Cullen	Lancaster	Ralph
Badham	Davis	Lanterman	Robinson
Bane	DeLdeh	Lewis	Rosenthal
Bannai	Dixon	Locker	Siegler
Berman	Duffy	MacDonald	Sieroty
Beverly	Egeland	Maddy	Suitt
Boatwright	Fenton	McAlister	Thomas, Vincent
Briggs	Foran	McLennan	Thomas, William
Brown	Garamendi	McVittie	Thurman
Burke	Goggin	Mende	Toires
Calvo	Greene	Miller	Tucker
Campbell	Gualco	Mobley	Vasconcellos
Carpenter	Hart	Montoya	Vicencia
Chacon	Hayden	Mori	Warren
Chappie	Hughes	Murphy	Wilson
Chel	Ingalls	Nestande	Wornum
Chimbole	Kapiloff	Nimmo	Z'berg
Cline	Keene	Papan	Mr. Speaker

Quorum present.

PRAYER

The following prayer was offered by the Chaplain, Father Leo McAllister:

God, Our Father, You have blessed us with wondrous generosity, especially in this United States

Help us to show our gratitude to You by the manner in which we use our resources and share them with others

Help us to show our appreciation of freedom by the manner in which we live and allow others to live.

Help us to show concern for justice by the manner in which we legislate and adjudicate.

Help us always remember to count our blessings —AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker McCarthy, Mr. Antonovich then led the Assembly in the pledge of allegiance to the Flag.

MOTION TO DISPENSE WITH READING OF THE JOURNAL

Further reading of the Journal of the previous legislative day was dispensed with on motion of Mr. Calvo, seconded by Mr. Murphy.

ADJOURNMENT

At 6.16 p.m., Speaker McCarthy declared the Assembly adjourned until 1 p.m., Friday, August 22, 1975.

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNAL

FORTY-SECOND LEGISLATIVE DAY

NINETY-SIXTH CALENDAR DAY

IN ASSEMBLY

Assembly Chamber, Sacramento
Friday, August 22, 1975

The Assembly met at 1 31 p m.

Hon. Leo T McCarthy, Speaker of the Assembly, presiding.

Chief Clerk James D Driscoll at the Desk.

Assistant Clerk Ray Monday reading.

ROLL CALL

The roll was called, and the following answered to their names—76:

Alatorre	Coller	Keene	Papan
Antonovich	Craven	Keyser	Perino
Arnett	Cullen	Knox	Priolo
Badham	Davis	Lancaster	Rosenthal
Bane	Deddeh	Lanterman	Siegler
Bannai	Dixon	Lewis	Sieroty
Berman	Duffy	Lockyer	Sutt
Beverly	Egeland	Maddy	Thomas, Vincent
Boutwright	Fenton	McAlister	Thomas, William
Briggs	Foran	McLennan	Thuman
Brown	Garamenda	McVittie	Torres
Burke	Gorgin	Meade	Tucker
Calvo	Greene	Miller	Vasconcellos
Carpenter	Gunico	Mobley	Vicencia
Chacon	Hait	Montoya	Warren
Chappie	Hayden	Mori	Wilson
Chel	Hughes	Murphy	Wornum
Chimbole	Ingalls	Nestande	Z'berg
Cline	Kapiloff	Nimmo	Mr. Speaker

Quorum present.

PRAYER

The following prayer was offered by the Chaplain, Father Leo McAllister.

Father, We ask Your help in living with change You know so well that we need some stability We need a place to stand, a truth that doesn't change Sometimes we do lose our bearings, so help us get used to the idea that new things may not be bad things, but the sign of Your Spirit at work Help us to understand that what really doesn't change is Your love for us—AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker McCarthy, Mr Cullen then led the Assembly in the pledge of allegiance to the Flag

MOTION TO DISPENSE WITH READING OF THE JOURNAL

Further reading of the Journal of the previous legislative day was dispensed with on motion of Mr. Goggin, seconded by Mr. Z'berg.

LEAVES OF ABSENCE FOR THE DAY

The following Members were granted leaves of absence for the day, because of illness.

Mr. Campbell, on request of Speaker pro Tempore Papan.

Mr. MacDonald, on request of Speaker pro Tempore Papan.

Mr. Robinson, on request of Speaker pro Tempore Papan.

The following Member was granted leave of absence for the day, on personal business, and desired to waive his per diem:

Mr. Ralph, on request of Speaker pro Tempore Papan.

Speaker pro Tempore Presiding

At 1:44 p m., Hon Louis J Papan, 19th District, presiding.

CONSIDERATION OF DAILY FILE**THIRD READING OF ASSEMBLY BILLS**

Assembly Bill No. 4 (Goggin)—An act to add Division 18 (commencing with Section 22000) to the Health and Safety Code, relating to health.

Bill read third time, and refused passage by the following vote:

AYES—24

Alatorre	Fenton	Keene	Siegler
Berman	Goggin	Lockyer	Stieritz
Boatwright	Gualco	McAlister	Torres
Brown	Hart	Meade	Vasconcellos
Dixon	Hughes	Mori	Wornum
Duffy	Kapiloff	Rosenthal	Z'berg

NOES—43

Antonovich	Chel	Knox	Papan
Arnett	Chimhole	Lancaster	Perino
Batham	Clune	Lauterman	Prilo
Banna	Collier	Lewis	Thomas, Vincent
Beverly	Craven	Maddy	Thomas, William
Briggs	Cullen	McLennan	Thuman
Burke	Deddeh	McVittie	Tucker
Calvo	Egeland	Mobley	Viernein
Carpenter	Foian	Murphy	Watten
Chacon	Hayden	Nestande	Wilson
Chappie	Ingaills	Nunno	

Motion to Reconsider Assembly Bill No. 4 on next Legislative Day

Mr Goggin moved to reconsider on the next legislative day the vote whereby Assembly Bill No. 4 was this day refused passage

Assembly Bill No. 4 ordered to the unfinished business file.

Assembly Bill No 5 (Duffy)—An act to amend Sections 125 5, 2100, 2101, 2119, 2361, 2361 5, 2362, 2364, 2372 5, 2436, 2454, and 2458, of, to add Article 11 (commencing with Section 800) to Chapter 1 of Division 2 of, Sections 2100.5, 2100 6, 2100 7, 2100 8, 2101 5, 2122 to, Article 2 3 (commencing with Section 2123) to Chapter 5 of Division 2 of, and Sections 2372, 2372 1, and 2458 5 to, and to repeal Article 11 (commencing with Section 800) of Chapter 1 of Division 2 of, Article 2 3 (commencing with Section 2123) of Chapter 5 of Division 2 of, and Section 2372 of, the Business and Professions Code, to add Section 14132 5 to the Welfare and Institutions Code, relating to the healing arts.

Bill read third time, and passed by the following vote:

AYES—71

Alatorre	Cline	Keene	Papan
Antonovich	Collier	Keyser	Perino
Arnett	Craven	Knox	Priolo
Badham	Cullen	Lancaster	Rosenthal
Bane	Deddeh	Lanterman	Siegler
Bannai	Dixon	Lewis	Sieroty
Berman	Duffy	Lockyer	Sutt
Beverly	Egeland	Maddy	Thomas, William
Boatwright	Fenton	McAlister	Thurman
Briggs	Foran	McLennan	Torres
Brown	Garamendi	McVittie	Vasconcellos
Burke	Goggin	Meade	Vicencia
Calvo	Greene	Miller	Warren
Carpenter	Hart	Mohley	Wilson
Chacon	Hayden	Montoya	Wornum
Chappie	Hughes	Mori	Z'berg
Chel	Ingalls	Nestande	Mr Speaker
Chimbole	Kapiloff	Nimmo	

NOES—None

Bill ordered transmitted to the Senate.

Assembly Bill No. 35 (Thurman)—An act to add Section 14110 4 to the Welfare and Institutions Code, relating to Medi-Cal.

Bill read third time, and passed by the following vote:

AYES—67

Alatorre	Collier	Kapiloff	Perino
Antonovich	Craven	Keene	Priolo
Arnett	Cullen	Keyser	Rosenthal
Bane	Deddeh	Knox	Siegler
Bannai	Dixon	Lanterman	Sieroty
Berman	Duffy	Lewis	Sutt
Beverly	Egeland	Lockyer	Thomas, William
Boatwright	Fenton	McAlister	Thurman
Brown	Foran	McLennan	Torres
Burke	Garamendi	McVittie	Vasconcellos
Calvo	Goggin	Meade	Vicencia
Carpenter	Greene	Miller	Warren
Chacon	Gualco	Montoya	Wilson
Chappie	Hart	Mori	Wornum
Chel	Hayden	Murphy	Z'berg
Chimbole	Hughes	Nimmo	Mr. Speaker
Cline	Ingalls	Papan	

NOES—3

Badham	Briggs	Maddy
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Bill ordered transmitted to the Senate.

RECESS

At 2:09 p.m., Speaker pro Tempore Papan declared the Assembly recessed.

REASSEMBLED

At 2:32 p.m., the Assembly reconvened.

Hon. Leo T. McCarthy, Speaker of the Assembly, presiding.

VOTE CHANGES

The following Members were granted unanimous consent to record their votes:

On Assembly Bill No. 4: Messrs. Ingalls and Chel, "Aye" to "No"; Mr. Garamendi, "Aye" to "Not voting"; Mr. Priolo, "No".

On Assembly Bill No. 35: Mr. Carpenter, "Aye".

ADJOURNMENT

At 2:33 p.m., Speaker McCarthy declared the Assembly adjourned until 9 a.m., Monday, August 25, 1975.

LEO T. MCCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNALFORTY-THIRD LEGISLATIVE DAY
NINETY-NINTH CALENDAR DAY**IN ASSEMBLY**Assembly Chamber, Sacramento
Monday, August 25, 1975

The Assembly met at 12 25 p m.

Hon Louis J Papan, Speaker pro Tempore of the Assembly,
presiding

Chief Clerk James D Driscoll at the Desk

Assistant Clerk Ray Monday reading.

ROLL CALL

The roll was called, and the following answered to their names—80:

Alatorre	Collier	Kevsor	Perino
Antonovich	Craven	Knob	Priolo
Arnett	Cullen	Lancaster	Ralph
Badham	Davis	Lanterman	Robinson
Banc	Deddeh	Lewis	Rosenthal
Bannon	Dixon	Lockyer	Siegler
Berman	Duffy	MacDonald	Sieroty
Beverly	Egeland	Maedy	Surtt
Boats right	Fenton	McAlister	Thomas, Vincent
Briggs	Folan	McLennan	Thomas, William
Brown	Garamendi	McVittie	Thurman
Burke	Goggin	Mende	Torres
Calvo	Greene	Miller	Tucker
Campbell	Gualco	Mobley	Vasconcellos
Carpenter	Hart	Montoya	Vienicia
Chacon	Hayden	Mori	Warren
Chappie	Hughes	Murphy	Wilson
Chel	Ingalls	Nestande	Worham
Chumbole	Kapiloff	Nimmo	Z'berg
Chue	Keene	Papan	Mr. Speaker

Quorum present.

PRAYER

The following prayer was offered by the Chaplain, Father Leo McAllister:

We Pray O Lord, For leaders of governments and those whose words and actions will influence the course of our history, that they may not tolerate injustice, seek refuge in violence or make rash and ill-considered decisions about the future of other people. We pray for all who live in the shadow of world events, for those who are never noticed or lauded, but who do their duty and remain obscure. We pray for all who are automatically just, peaceful and industrious, whose contribution is indispensable. We pray that none will be ignored or forgotten for we do not walk or work alone, neither without You, Lord, nor without each other —AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker pro Tempore Papan, Mr. Calvo then led the Assembly in the pledge of allegiance to the Flag.

MOTION TO DISPENSE WITH READING OF THE JOURNAL

Further reading of the Journal of the previous legislative day was dispensed with on motion of Mr. Calvo, seconded by Mr. McLennan.

MESSAGES FROM THE SENATE

Senate Chamber, August 22, 1975

Mr. Speaker: I am directed to inform your honorable body that the Senate on this day passed:

Senate Bill No. 4

DARRYL R. WHITE, Secretary of the Senate
By John W. Rovane, Chief Assistant Secretary

FIRST READING AND REFERENCE OF SENATE BILLS

The following bill was read the first time, and ordered held at the Desk.

Senate Bill No. 4—An act to add and repeal Section 11587 to the Insurance Code, relating to medical malpractice insurance, and declaring the urgency thereof, to take effect immediately.

REFERENCE OF BILLS TO COMMITTEE

Pursuant to the Assembly Rules, the following bill was referred to committee:

Senate
Bill No.

Committee

4. _____ Finance, Insurance, and Commerce

MOTION TO RECONSIDER ASSEMBLY BILL NO. 4 CONTINUED

Mr. Goggin was granted unanimous consent that his motion to reconsider the vote on Assembly Bill No. 4 be continued until the next legislative day.

RECESS

At 12.26 p.m., Speaker pro Tempore Papan declared the Assembly recessed.

REASSEMBLED

At 9 06 p m . the Assembly reconvened

Hon Louis J Papan, Speaker pro Tempore of the Assembly, presiding.

AUTHOR'S AMENDMENTS**Committee on Ways and Means**

Assembly Chamber, August 25, 1975

Mr Speaker The Chairman of your Committee on Ways and Means reports:

Assembly Bill No 2

With author's amendments with the recommendation Amend and re-refer to the Committee on Ways and Means.

FORAN, Chairman

Assembly Bill No. 2—An act to amend Sections 441 18, and 1265 5 of, to add Part 5 (commencing with Section 1199) to Division 1 of, to repeal Section 442 11 of, and to repeal Part 1 5 (commencing with Section 437) of Division 1 of, the Health and Safety Code, relating to health services and facilities.

Bill read second time.

Consideration of Author's Amendments

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted.

Amendment 1

In line 3 of the title of the printed bill, as amended in Assembly June 26, 1975, strike out "and 1265 5", and insert " , 1250, 1255, 1265, 1267, and 1268"

Amendment 2

In line 4 of the title, after "add", insert "Section 1265 7 to, to add".

Amendment 3

In line 6 of the title, strike out "Section 442 11", and insert "Sections 442 11 and 1265 5"

Amendment 4

In line 7 of the title, after the second comma, insert "and to amend Section 14105 5 of the Welfare and Institutions Code,".

Amendment 5

On page 5, between lines 31 and 32, insert
"The commission shall furnish to the state department, upon request, information concerning health facilities which report capital expenditures as defined in subdivision (c) of Section 1199 51."

Amendment 6

On page 6, strike out lines 6 to 40, inclusive, on page 7, strike out lines 1 and 2, and in line 3, strike out "SEC 5", and insert "SEC. 4".

Amendment 7

On page 7, line 16, after "and", insert "Resources".

Amendment 8

On page 7, strike out lines 20 to 40, inclusive; and on page 8, strike out lines 1 to 8, inclusive, and insert

"(1) It is of vital importance that the State of California have a hospital and related health facilities system which makes available to the public the highest capabilities of health facility care at the lowest reasonable cost. Current rapidly accelerating rates charged for health facility services are a matter of serious public concern which require state regulation and surveillance of health facilities development and construction as herein provided.

(2) Health facilities are affected with the public interest, involved in the distribution of essential services, and obliged to furnish such services to the general public at minimum costs consistent with good quality. Further, such facilities function in a system where usual business competition often does not apply.

(3) State government has an obligation to assure access and availability of high quality, effectively provided, and economical health facility services to all the people of California. The state has a particular interest in the proportion of such services which is paid from public funds. And, because of the impact of these public funds on the health care delivery system, the state recognizes its particular obligation to carefully plan and regulate the various uses of these funds, particularly the manner in which they affect the availability and cost of health facility services to all the people of California."

Amendment 9

On page 8, strike out line 15, and insert

"(5) Increases in the cost of health care, particularly of hospital stays, have been uncontrolled and inflationary, and needless duplication and underutilization of existing facilities now exists. In addition, there are not adequate incentives for the use of appropriate alternative levels of health care, and for the substitution of ambulatory and intermediate care for inpatient hospital care.

(6) Response to these".

Amendment 10

On page 8, line 17, strike out "have", and insert "has".

Amendment 11

On page 8, line 18, after "present", insert "conditions".

Amendment 12

On page 8, strike out lines 26 to 37, inclusive; and in line 38, strike out "(9) As", and insert

"(7) Finally, as".

Amendment 13

On page 9, line 14, strike out "Public Law 93-641," and insert "the National Health Planning and Resources Development Act of 1974 (P L. 93-641); and".

Amendment 14

On page 9, strike out lines 15 and 16.

Amendment 15

On page 9, between lines 21 and 22, insert

“(c) It is the intent of the Legislature that, if any of the provisions of this part are found to be in conflict with federal rules and regulations pertaining to the administration of Public Law 93-641, such provisions shall be of no force or effect to the extent of such conflict.”

Amendment 16

On page 9, strike out lines 26 to 39, inclusive; and in line 40, strike out “(c)”, and insert

“(a)”.

Amendment 17

On page 10, line 37, strike out “(d)”, and insert

“(b)”.

Amendment 18

On page 11, line 2, strike out “(e)”, and insert

“(c)”.

Amendment 19

On page 11, strike out lines 4 to 10, inclusive; and in line 11, strike out “(g)”, and insert “Section 1250) of Division 2.

(d)”.

Amendment 20

On page 11, strike out lines 16 to 40, inclusive; on page 12, strike out lines 1 to 15, inclusive, and in line 16, strike out “(k)”, and insert

“(e)”.

Amendment 21

On page 12, strike out lines 22 to 25, inclusive, and insert

“(f) “Cost,” for purposes of Chapter 3 (commencing with Section 1199 49) of this part, shall mean the amount found by the department to be necessary for the completion of projects requiring a certificate of need under Section 1199 51.”

Amendment 22

On page 12, strike out lines 26 to 40, inclusive, and insert

“(g) “State agency” means the State Department of Health.”

Amendment 23

On page 13, line 1, strike out “(p)”, and insert

“(h)”.

Amendment 24

On page 13, line 4, strike out “(q)”, and insert

“(i)”.

Amendment 25

On page 13, strike out lines 6 and 7; and in line 8, strike out “(s)”, and insert

“(j)”.

Amendment 26

On page 13, between lines 10 and 11, insert

“(k) “Consumer” means any person who is not a provider of health care.

(l) “Board” means the Certificate of Need Appeals Board.”

Amendment 27

On page 13, line 15, after "and", insert "Resources".

Amendment 28

On page 13, line 22, after "and", insert "Resources".

Amendment 29

On page 14, strike out lines 5 to 9, inclusive, and insert
 "(d) To administer the state certificate of need program."

Amendment 30

On page 14, line 16, after the period, insert "The state agency shall establish procedures to provide opportunity for public comment on all applications on certificates of need "

Amendment 31

On page 14, between lines 26 and 27, insert

"(h) With the guidance of the Statewide Health Coordinating Council, to establish procedures and a format for the uniform development of the area health systems plans for incorporation in the preliminary state health plan.

(i) To collect from health facilities on a periodic basis such data and information as found necessary to carry out the purposes of this part as required under the provisions of Section 1271

The state agency shall promulgate reasonable rules and regulations to carry out the purposes of this part."

Amendment 32

On page 14, line 37, strike out "50", and insert "46".

Amendment 33

On page 15, strike out lines 20 to 22, inclusive, and insert "Health, or their designees."

Amendment 34

On page 15, line 27, strike out "paragraph", and insert "subdivision".

Amendment 34.5

On page 15, line 34, after "the", insert "voting".

Amendment 35

On page 16, line 12, after "be", insert "to".

Amendment 36

On page 16, line 13, strike out "To annually", and insert "Annually".

Amendment 37

On page 16, strike out lines 24 and 25, and in line 26, strike out "(d)", and insert
 "(c)".

Amendment 38

On page 16, line 26, after "revise", insert ", approve, and adopt."

Amendment 39

On page 16, lines 27 and 28, strike out "but at least annually,".

Amendment 40

On page 16, line 29, strike out "(e)", and insert "(d)".

Amendment 41

On page 16, line 31, strike out "(f)", and insert "(e)".

Amendment 42

On page 16, between lines 35 and 36, insert "(f) Review annually the budget of each health systems agency and report comments to the secretary."

Amendment 43

On page 17, line 1, strike out "Health Care Commission", and insert "Certificate of Need Appeals Board".

Amendment 44

On page 17, line 7, strike out "Health Care Commission", and insert "Certificate of Need Appeals Board".

Amendment 45

On page 17, line 8, strike out "commission", and insert "board".

Amendment 46

On page 17, line 9, after "members", insert ", five of whom".

Amendment 47

On page 17, line 10, strike out "The", and insert "; and four of whom are providers of health care, one of whom shall be a physician in active practice, one of whom shall be an administrator of a nonprofit general acute care hospital, one of whom shall be an administrator of an investor owned hospital, and one of whom shall be an administrator of a skilled nursing facility. All members of the board shall also have knowledge in the field of health care services.

The consumer".

Amendment 48

On page 17, line 16, strike out "commission", and insert "board".

Amendment 49

On page 17, line 17, strike out "by the Governor".

Amendment 50

On page 17, strike out lines 19 to 38, inclusive, and insert "of their successors. All provider members shall be appointed by the Governor. Of the five consumer members, three shall be appointed by the Governor, one shall be appointed by the Senate Committee on Rules, and one shall be appointed by the Speaker of the Assembly. Of the consumer members first appointed by the Governor, one shall hold office for four years, one shall hold office for three years, and one shall hold office for two years. Vacancies shall be filled by the appointing authority for the unexpired term. The appointing authority may remove any member of the board for neglect of any duty required by law, or for incompetence or dishonorable conduct."

Amendment 51

On page 17, line 40, strike out "commission", and insert "board".

Amendment 52

On page 18, line 2, strike out "commission", and insert "board".

Amendment 53

On page 18, line 4, strike out "chairman, a vice chairman", and insert "chairperson, a vice chairperson".

Amendment 54

On page 18, line 6, strike out "commission", and insert "board".

Amendment 55

On page 18, line 7, strike out "chairman", and insert "chairperson".

Amendment 56

On page 18, line 8, strike out "commission", and insert "board".

Amendment 57

On page 18, between lines 13 and 14, insert "1199.15.5. The board shall have the power to hire an executive secretary and such other staff as necessary to carry out its functions"

Amendment 58

On page 18, line 14, strike out "commission", and insert "board".

Amendment 59

On page 18, line 18, after the period, insert "The decision of the state agency shall be final unless appealed to the board."

Amendment 60

On page 18, line 19, strike out "As soon as", and insert "A protest or request for a hearing shall be filed within 30 days following the date a decision is issued by the state agency with respect to a certificate of need. Within 30 days of receiving".

Amendment 61

On page 18, line 20, strike out "is received, the commission", and insert ", the board".

Amendment 62

On page 18, strike out lines 21 to 23, inclusive, and insert "shall set a hearing date. The hearing shall be held within 30".

Amendment 63

On page 18, line 25, strike out "region", and insert "health service area".

Amendment 64

On page 18, line 26, strike out "commission", and insert "board".

Amendment 65

On page 18, line 29, strike out "recommendation", and insert "decision".

Amendment 66

On page 18, line 30, strike out "commission", and insert "board".

Amendment 67

On page 18, line 34, strike out "geographical", and insert "health service".

Amendment 68

On page 18, line 35, strike out "commission", and insert "board".

Amendment 69

On page 18, strike out lines 36 to 38, inclusive, and insert "applicant, the state department, the area agency, and any person requesting such notice."

Amendment 70

On page 18, line 39, after the first "the", insert "appeals".

Amendment 71

On page 19, line 4, strike out "may be held by the commission," and insert "shall be held by the board, with the assistance of a hearing officer".

Amendment 72

On page 19, strike out line 5, and insert " Every".

Amendment 73

On page 19, line 6, strike out "geographical", and insert "health service".

Amendment 74

On page 19, lines 7 and 8, strike out "and shall be presided over by a hearing officer assigned by the commission".

Amendment 75

On page 19, strike out line 10, and insert "advise the board on matters of law. The board shall".

Amendment 76

On page 21, line 5, strike out "commission", and insert "board".

Amendment 77

On page 21, line 8, strike out "commission", and insert "board".

Amendment 78

On page 21, line 15, strike out "commission", and insert "board".

Amendment 79

On page 21, line 16, strike out "commission", and insert "board".

Amendment 80

On page 22, line 10, strike out "commission's", and insert "board's".

Amendment 81

On page 22, line 19, strike out "commission", and insert "board".

Amendment 82

On page 22, line 25, strike out "commission", and insert "board".

Amendment 83

On page 22, line 32, strike out "commission", and insert "board".

Amendment 84

On page 22, line 33, strike out "commission", and insert "board".

Amendment 85

On page 22, strike out line 34, and in line 35, strike out "those", and insert "application. Those".

Amendment 86

On page 23, line 5, strike out "commission", and insert "board".

Amendment 87

On page 23, line 10, strike out "commission", and insert "board".

Amendment 88

On page 23, line 12, strike out "commission", and insert "board".

Amendment 89

On page 23, line 16, strike out "commission", and insert "board".

Amendment 90

On page 23, line 20, strike out "commission", and insert "board".

Amendment 91

On page 23, line 24, strike out "commission", and insert "board".

Amendment 92

On page 23, line 25, strike out "commission", and insert "board".

Amendment 93

On page 23, line 29, strike out "commission", and insert "board".

Amendment 94

On page 23, line 32, strike out "commission", and insert "board".

Amendment 95

On page 23, line 35, strike out "commission", and insert "board".

Amendment 96

On page 23, line 36, strike out "commissioner", and insert "member".

Amendment 97

On page 23, line 38, strike out "commission", and insert "board".

Amendment 98

On page 23, strike out line 40, and on page 24, strike out lines 1 to 3, inclusive, and insert "presented"

Amendment 99

On page 24, line 4, strike out "commission", and insert "board".

Amendment 100

On page 24, strike out lines 11 to 13, inclusive, and insert
“(c) The state agency shall issue a certificate of need, effective 30 days after the date of a favorable decision unless otherwise stayed by a court pursuant to Section”.

Amendment 101

On page 24, strike out lines 15 to 40, inclusive; and on page 25, strike out lines 1 to 15, inclusive

Amendment 102

On page 25, line 17, strike out "commission", and insert "board".

Amendment 103

On page 25, line 26, strike out "commission", and insert "board"

Amendment 104

On page 25, line 28, strike out "commission", and insert "board".

Amendment 105

On page 25, line 33, strike out "commission", and insert "board".

Amendment 106

On page 25, line 36, strike out "commission", and insert "board"

Amendment 107

On page 26, line 3, strike out "commission", and insert "board".

Amendment 108

On page 26, strike out line 16, and insert "1199 33 Final decisions of the state agency or the board on applications".

Amendment 109

On page 26, line 27, strike out "12", and insert "24".

Amendment 110

On page 26, line 30, strike out "12-month", and insert "24-month"

Amendment 111

On page 26, line 32, strike out "commission", and insert "board".

Amendment 112

On page 26, strike out lines 37 to 40, inclusive, and on page 27, strike out lines 1 and 2

Amendment 113

On page 27, line 4, strike out "the repeal of Part 15", strike out line 5, and insert "January 1, 1976, shall be".

Amendment 114

On page 27, line 10, strike out "commission", and insert "board"

Amendment 115

On page 27, strike out lines 12 and 13, and insert "this article, the decision of the state agency shall prevail and shall be deemed the final decision."

Amendment 116

On page 27, strike out lines 18 to 32, inclusive, and insert

"Article 6 Finanemg".

Amendment 117

On page 27, line 33, after "charged", insert ", for the purposes of providing funds for the operation of the board,".

Amendment 118

On page 27, line 34, strike out "0 05", and insert "0.01".

Amendment 119

On page 27, line 40, strike out "1976", and insert "1977".

Amendment 120

On page 28, line 1, strike out "0 05", and insert "0 02".

Amendment 121

On page 28, line 5, strike out the first "to", and insert "which, together with anticipated filing fees pursuant to Section 1199 52, will".

Amendment 122

On page 28, line 9, strike out "California Health Facilities", and insert "Certificate of Need Appeals Board".

Amendment 123

On page 28, line 15, strike out "California Health Facilities", and insert "Certificate of Need Appeals Board".

Amendment 124

On page 28, line 16, after "agency", insert "and the board".

Amendment 125

On page 28, line 18, strike out "part", and insert "chapter".

Amendment 126

On page 29, between lines 7 and 8, insert
"(e) Health facilities operated by the state shall be exempted from this article "

Amendment 127

On page 31, line 18, after "plan", insert "as directed by the procedures and format specified by the state agency".

Amendment 128

On page 34, line 3, after "Council", insert "and state agency".

Amendment 129

On page 35, line 22, after "federal", insert "and state".

Amendment 130

On page 37, line 18, strike out "reorganized", and insert "recognized".

Amendment 131

On page 38, line 12, after "recommendations", insert "based upon its area health services plan and area implementation plan".

Amendment 132

On page 38, strike out lines 18 to 20, inclusive, and insert "recommendations based upon its area health services plan and area implementation plan on applications for certificate of need submitted by entities within its health services area and forward such recommendations to the state agency."

Amendment 133

On page 38, line 30, after "person", insert " , political subdivision, state, or governmental agency, except state hospitals for the developmentally disabled and the mentally disabled operated by the State Department of Health,".

Amendment 134

On page 38, line 33, strike out the period, and insert "with the following exceptions:

(a) Any project for which the applicant has committed or incurred a financial obligation prior to the effective date of this chapter which cannot be terminated without substantial economic loss and in which the applicant can demonstrate to the satisfaction of the department that he is diligently pursuing to completion shall be exempted from the provisions of this chapter if the project is completed on or before March 1, 1976. The department may require documentary evidence which shall conclusively establish any alleged financial commitment or other loss which may be incurred if such project is not completed. Appropriate criteria for substantial economic loss shall be established by the department

(b) Any project may proceed without a certificate of need from the state agency if 12 months have expired since a certificate of need was denied for the project. However, such project shall not be exempt from the provisions of Section 14105 5 of the Welfare and Institutions Code."

Amendments 135, 136, and 137

On page 38, line 38, after "and", insert " , after opportunity has been provided for public comment,".

Amendment 138

On page 39, strike out lines 8 to 12, inclusive, and insert "facility, the conversion of existing beds in one classification to a different bed classification, or an increase in bed capacity in any bed classification. For the purposes of this section, "bed classification" shall be defined pursuant to subdivision (c) of Section 1265."

Amendment 139

On page 39, line 13, strike out "a", strike out lines 14 and 15, and insert "any special service set forth in subdivisions (a) to (h), inclusive, of Section 1255."

Amendment 140

On page 39, strike out lines 16 to 40, inclusive; and on page 40, strike out lines 1 to 35, inclusive.

Amendment 141

On page 41, strike out lines 1 to 4, inclusive, and insert "need shall submit such".

Amendment 142

On page 42, line 31, strike out "and comments", and insert " , comments, and recommendations".

Amendment 143

On page 42, line 32, strike out "The area agency", and strike out lines 33 and 34.

Amendment 144

On page 42, line 36, after the second comma, insert "approve with conditions mutually agreed upon by the department and the applicant,".

Amendment 145

On page 42, line 38, after the period, insert "If any applicant fails to fulfill the conditions under which approval is granted, such failure shall constitute grounds for revocation of such approval."

Amendment 146

On page 42, line 39, strike out "recommendation", and insert "decision".

Amendment 147

On page 42, line 40, after the first "the", insert "recommendation of".

Amendment 148

On page 43, line 3, strike out "recommendations", and insert "decision".

Amendment 149

On page 43, line 14, strike out "issue", and insert "render a decision".

Amendment 150

On page 43, line 34, strike out "recommend", and insert "establish, with the advice of the state agency,".

Amendment 151

On page 43, line 35, after "methodology", and insert ", and shall promulgate overall policies".

Amendment 152

On page 44, line 32, after the period, insert "For the purposes of this part,".

Amendment 153

On page 44, line 35, strike out the period and insert a comma

Amendment 154

On page 44, line 38, strike out the period and insert a comma

Amendment 155

On page 45, line 2, strike out the period, and insert ", and".

Amendment 156

On page 45, line 20, strike out "council", and insert "state agency".

Amendment 157

On page 45, line 26, after "council", insert ", with the assistance of the state agency,".

Amendment 158

On page 45, between lines 32 and 33, insert "1199.59 Annually the state agency shall prepare, review, and revise a preliminary state health plan which shall be made up of the health systems plans of the health systems agencies within the state. The preliminary state health plan shall be submitted to the council

for approval as the state health plan. The state agency shall provide procedures and format for the development of health systems plans and the state health plan after consideration of the recommendations of the council.

1199 60 The Statewide Health Coordinating Council shall annually approve and adopt a state health plan upon receipt and approval of a preliminary state health plan submitted by the state agency. The council may require a health systems agency to revise its health systems plan to achieve appropriate coordination or to deal more effectively with statewide health needs. After providing an opportunity for interested persons to submit their views, and upon approving health systems plans as revised, the council shall adopt such a state health plan."

Amendment 159

On page 45, line 33, strike out "1199 59", and insert "1199.61".

Amendment 160

On page 46, between lines 4 and 5, insert

"1199 62 Upon the effective date of this part, with respect to the health services area involved, in the absence of a designated health systems agency, the state agency shall (a) undertake all functions of a health systems agency pursuant to Chapter 3 (commencing with Section 1199 49), (b) assume the decisionmaking authority on all applications pending approval before the voluntary area health planning agencies in the area, pursuant to Section 437 7 of the Health and Safety Code prior to its repeal, and (c) request any voluntary area health planning agency in existence to review and make recommendations on all applications submitted in the agency's designated area pursuant to Section 1199 51.

1199 63 The Advisory Health Council shall continue in existence for the purpose of hearing appeals pending before the council on the decision or lack of decision of a voluntary area health planning agency, or the consumer members of a voluntary area health planning agency acting as an appeals body, until all members of the Certificate of Need Appeals Board have been appointed.

1199 64 The Advisory Health Council shall continue in existence and shall exercise the powers and duties of the Statewide Health Coordinating Council until all members of the Statewide Health Coordinating Council have been appointed and the chairperson of the council selected.

CHAPTER 5. HEALTH RESOURCES DEVELOPMENT

Article 1. Definitions and General Provisions

1199 65 As used in this chapter:

(a) "Federal act" means Public Law 93-641.

(b) "Federal share" means the proportion of the cost of a medical facility's project which the state agency determines the federal government will provide under allotment payments or a loan or loan guarantee in accordance with Section 1633(2)(A)(B)(C) of the federal act.

(c) "Hospital" means a general, tuberculosis, and other types of hospitals and related facilities such as laboratories, outpatient departments, nurses' home facilities, extended care facilities, facilities related to program for home health services, self-care units and dental service facilities, operated in connection with hospitals, and also includes education or training facilities for health professional personnel operated as an integral part of a hospital, but does not include any hospital furnishing primarily domiciliary care.

(d) "Public health center" means a publicly owned facility for the provision of public health services, including related publicly owned facilities such as laboratories, clinics, and administrative offices operated in connection with such a facility

(e) "Nonprofit" as applied to any facility means a facility which is owned and operated by one or more nonprofit corporations or associations, no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual

(f) "Outpatient medical facility" means a medical facility (located in or apart from a hospital) for the diagnosis or diagnosis and treatment of ambulatory patients (including ambulatory inpatients):

(1) Which is operated in connection with a hospital,

(2) In which patient care is under the professional supervision of persons licensed to practice medicine or surgery in the state, or in the case of dental diagnosis or treatment, under the professional supervision of persons licensed to practice dentistry in the state, or

(3) Which offers to patients not requiring hospitalization the services of licensed physicians in various medical specialties and which provides to its patients a reasonably full range of diagnostic and treatment services.

(g) "Rehabilitation facility" means a facility which is operated for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of.

(1) Medical evaluation and services, and

(2) Psychological, social or vocational evaluation and services, under competent professional supervision, and in the case of which the major portion of the required evaluation and services are furnished within the facility, and either the facility is operated in connection with a hospital, or all medical and related health services are prescribed by, or are the general direction of, persons licensed to practice medicine or surgery in the state

(h) "Long-term care facility" means a facility (including a skilled nursing or intermediate care facility) providing inpatient care for convalescent or chronic disease patients who require skilled nursing or intermediate care and related medical services.

(1) Which is a hospital (other than a hospital primarily for the care and treatment of mentally ill or tuberculosis patients) or is operated in connection with a hospital, or

(2) In which such care and medical services are prescribed by, or are performed under the general direction of, persons licensed to practice medicine or surgery in the state.

(i) "Construction" means construction of new buildings and initial equipment of such construction of such buildings and, in any case in which it will help to provide a new service not previously provided in the community, equipment of any building; including architects fees, but excluding the cost of offsite improvements, and, except with respect to public health centers, the cost of acquisition of land

(j) "Cost" as applied to construction, modernization or conversion, means the amount found to be necessary for construction, modernization or conversion, except that in the case of a modernization project or a project assisted under Section 1625 of the federal act, such term does not include any amount found to be attributable to expansion of the bed capacity of any facility

(k) "Modernization" means the alteration, expansion, major repair, remodeling, replacement and renovation of existing building (including initial equipment) and the replacement of obsolete equipment of existing buildings

(l) "State agency" means the State Department of Health.

(m) "Secretary" means the Secretary of Health, Education and Welfare.

(n) "Urban or rural poverty area" means an urban or rural geographical area defined by the secretary in which a percentage of the residents of the area have incomes below the poverty level

(o) "Medically underserved population" means the population of an urban or rural area designated by the secretary as an area with a shortage of health facilities or a population group as having a shortage of such facilities.

Article 2 Administration

1199 66. The State Department of Health shall constitute the sole agency of the state for the following purposes

(a) Administer the State Medical Facilities Plan

(b) Make a statewide inventory of health facilities

(c) Require such reports, make such inspections and prescribe such regulations as the department deems necessary

(d) Provide such methods of administration, appoint such personnel and take such other action as may be necessary to comply with the federal act, this chapter and regulations thereunder

(e) Make an annual report to the Governor and to the Legislature on activities and expenditures pursuant to this chapter, including recommendations for such additional legislation as the department considers appropriate to furnish adequate health facilities and services to the people of this state

1199 67. The Statewide Health Coordinating Council shall advise and consult with the department in carrying out the administration of this chapter and shall approve the State Medical Facilities Plan developed pursuant to this chapter and Section 1524(c)(2) of the federal act.

1199 68 The department shall make an inventory of existing health facilities, including public, nonprofit and proprietary, and develop a medical facilities plan based upon the inventory, a survey of need and the plans of the health system agencies within the state. The plan shall include:

(1) The number and types of medical facility beds and medical facilities needed to provide adequate inpatient care to persons residing in the state and the distribution of such beds and facilities in health service areas.

(2) The number and type of outpatient and other medical facilities needed to provide adequate public health services and outpatient care to people residing in California and the distribution of such facilities in health service area.

(3) The extent to which existing medical facilities are in need of modernization or conversion to new uses

The medical facilities plan shall determine a priority among projects based upon the relative need of different areas for such projects and give special consideration

(1) To projects serving areas with relatively small financial resources and for medical facilities serving rural communities

(2) In the case of projects for modernization of medical facilities to projects for facilities serving densely populated areas

(3) In the case of projects for construction of outpatient facilities to projects that will be located in and provide services for residents of areas determined to be rural or urban poverty areas

(4) To projects designed to eliminate or prevent imminent safety hazards as defined by federal, state or local fire building or life safety codes or regulations or avoid noncompliance with state or voluntary licensure or accreditation standards

(5) To projects for medical facilities which alone or in conjunction with other facilities will provide comprehensive health care, including outpatient and preventive care as well as hospitalization

1199 69 The department shall annually submit to the secretary a medical facilities plan which shall include the health facilities construction program and shall provide for the establishment, administration and operation of health facilities construction activities in accordance with the requirements of the federal act and regulations thereunder.

1199 70 The department shall by regulation prescribe minimum standards for the maintenance and operation of health facilities which receive federal assistance for construction under the federal act

1199 71. Applications for health facility construction projects for which federal funds are requested shall be submitted to the department by the state or any political subdivision or by a nonprofit agency authorized to construct and operate a health facility. Applications for grants for construction or modernization to eliminate or prevent safety hazards defined by federal, state and local fire building or life safety codes or regulations or avoid noncompliance with state or voluntary licensure or accreditation standards shall be submitted directly to the secretary only by state or political subdivisions of the state.

1199 72 The department shall afford to every applicant for assistance for a project an opportunity for a fair hearing on the application.

1199 73 From time to time the department shall inspect each construction project approved by the secretary and if the inspection so warrants, the department shall certify to the secretary that work has been performed or purchases made, in accordance with the approved plans and specifications and that payment of an installment of federal funds is due to the applicant

1199 74 The department is hereby authorized to receive federal funds in behalf of and transmit them to such applicants Money received from the federal government for construction of a project approved by the secretary shall be deposited in the department's fund and shall be used solely for payments due applicants for work performed, or purchase made, in carrying out approved projects

SEC 5 Section 1250 of the Health and Safety Code is amended to read:

1250 . As used in this chapter "health facility" means any facility, place or building which is organized, maintained and operated for the diagnosis, care and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which such persons are admitted for a 24-hour stay or longer *except for facilities included within subdivision (f)*, and includes the following types:

(a) "General acute care hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services.

(b) "Acute psychiatric hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care for mentally disordered, incompetent, or other patients referred to in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code, including the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.

(c) "Skilled nursing facility" means a health facility which provides the following basic services: skilled nursing care and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis.

(d) "Intermediate care facility" means a health facility which provides the following basic services: inpatient care to ambulatory or semiambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not require availability of continuous skilled nursing care.

(e) "Special hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff which provides inpatient or outpatient care in rehabilitation, dentistry, or maternity.

(f) "Surgicenter" means an outpatient facility which primarily provides surgical treatment and anesthesia services to patients not requiring 24-hour inpatient care and which is not part of a general acute care hospital and does not include the offices of physicians and surgeons or dentists

SEC 6. Section 1255 of the Health and Safety Code is amended to read:

1255. In addition to the basic services offered under the license, a general acute care hospital may be approved in accordance with subdivision (b) of Section 1277 to offer special services including, but not limited to, the following:

- (a) Radiation therapy ~~department~~ services .
- (b) Burn center services .
- (c) ~~Emergency center~~ Cardiovascular surgery services .
- (d) Hemodialysis center (or unit) services .
- (e) Psychiatric unit services .
- (f) Intensive care newborn nursery services .
- (g) Emergency services
- (h) Such other special services as the department may prescribe by regulation

~~The state department shall adopt standards for special services and such other regulations as may be necessary to implement this section.~~

SEC 7. Section 1265 of the Health and Safety Code is amended to read:

1265. Any person, political subdivision of the state, or governmental agency desiring a license ~~or renewal of a license~~ for a health facility or approval for a ~~special service~~ any services required to be approved by the state department for a health facility under the provisions of this chapter shall file with the state department a verified application on forms prescribed and furnished by the state department, containing:

- (a) The name of the applicant and, if an individual, whether the applicant has attained the age of 18 years
- (b) The type of ~~facility~~ or health facility
- (c) The number of beds proposed for each of the following bed classifications: general acute care, skilled nursing care, intermediate care, acute psychiatric care, and intensive care.
- (d) The type of services in use or proposed for use.
- (e) The location thereof
- (~~d~~) (f) The name of the person in charge thereof.
- (~~e~~) (g) Evidence satisfactory to the state department that the applicant is of reputable and responsible character. If applicant is a firm, association, organization, partnership, business trust, corporation, or company, like evidence shall be submitted as to the members or shareholders thereof, and the person in charge of the health facility for which application for license is made. If the applicant is a political subdivision of the state or other governmental agency, like evidence shall be submitted as to the person in charge of the health facility for which application for license is made.

~~(f)~~ (h) Evidence satisfactory to the state department of the ability of the applicant to comply with the provisions of this chapter and of rules and regulations promulgated under this chapter by the state department

~~(g)~~ (i) Such other information as may be required by the state department for the proper administration and enforcement of this chapter.

(j) A verified statement that the applicant health facility has, in compliance with Section 1199 49, received a certificate of need for each project undertaken as described and required in Section 1199 51 or that the applicant facility is exempt from Section 1199 49. With respect to renewal of a license, the verification shall cover the preceding period of licensure.

SEC 8. Section 1265 5 of the Health and Safety Code is repealed 1265 5. In addition to the requirements of Section 1265, any person, political subdivision of the state, or governmental agency desiring a license as a health facility or a facility for the mentally disordered or incompetent under the provisions of this chapter which shall cover a new health facility or additional bed capacity or the conversion of existing bed capacity to a different license category, except outpatient and emergency services, shall file with the state department a verified statement on a form prescribed, prepared, and furnished by the state department containing-

(a) The date applicant filed its complete application for new or additional bed capacity or conversion of an existing bed capacity with the voluntary area health planning agency or voluntary local health planning agency approved pursuant to Section 427 7.

(b) The date or dates the voluntary area health planning agency or voluntary local health planning agency held a public hearing or hearings on the proposal, and evidence that the applicant participated in the hearing in accordance with established procedures of such group.

(c) The date the voluntary area health planning agency or the consumer members of a voluntary area health planning agency acting as an appeals body or the council made a final and favorable decision concerning the new or additional bed capacity or conversion of facilities and a statement that the time for appeal has expired; or in the case of a modified approval, that the modifications have been made; or

(d) That the time allowed for decision has passed and no decision has been made or that the voluntary area health planning agency failed to act upon a lack of recommendation by the voluntary local health planning agency within the time allowed; or

(e) That more than 12 months have expired since a decision has been reached by the voluntary area health planning agency.

SEC 9. Section 1265 7 is added to the Health and Safety Code, to read:

1265 7 The state department may review, but shall not approve, any construction plans or issue any license or renew a license for a health facility or approve a service under this chapter until the applicant has complied with the provisions of Section 1265.

SEC. 10. Section 1267 of the Health and Safety Code is amended to read:

1267. Each license issued or renewed pursuant to this chapter shall expire 12 months from the date of its issuance and each special permit shall expire on the expiration date of the license. Application for renewal of a license or special services permit accompanied by the necessary fee shall be filed with the state department not less than 10 days prior to the expiration date. Failure to make a timely renewal shall result in expiration of the license or special services permit.

A renewal license or special services permit may be issued for a period not to exceed two years if the holder of the license or special services permit has been found not to have been in violation of any statutory requirements, regulations, or standards during the preceding license period.

SEC. 11. Section 1268 of the Health and Safety Code is amended to read:

1268. Upon the filing of the application for licensure or for a special services permit for special services and full compliance with the provisions of this chapter and the rules and regulations of the state department, the state department shall issue to the applicant the license or special services permit applied for. *The license shall indicate the number of beds in each bed classification and the services approved by the department.* However, if the director finds that the applicant is not in compliance with the laws or regulations of this part, he shall deny the applicant a license or a special services permit for special services.

SEC. 12. Section 14105.5 of the Welfare and Institutions Code is amended to read:

14105.5. ~~The director or prepaid health plans shall make no payment for services to any hospital facility which secures a license under the provisions of Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code after July 1, 1970, covering a new facility or additional bed capacity or the conversion of existing bed capacity to a different license category, unless such licensee received No health facility licensed under the provisions of Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code shall receive any payment from the director or from any prepaid health plan for services rendered to any Medi-Cal program beneficiary if either of the following has occurred:~~

(a) ~~The facility has proceeded after July 1, 1970, with a project involving a new facility, additional bed capacity, or the conversion of existing bed capacity to a new license category, and has failed to obtain a favorable final decision by the voluntary area health planning agency in the area, the consumer members of a voluntary area health planning agency acting as an appeals body or the Advisory Health Council pursuant to Sections 437.7 to 438.5, inclusive, of the Health and Safety Code; or unless the licensee had filed an application for a license prior to January 1, 1970, and the application met all then-~~

existing requirements and regulations of the appropriate state agency at the time of application including, at least, preliminary submission of plans, and if such licensee commences construction of his project prior to July 1, 1971, and if such licensee has on file with the State Department of Health a notarized affidavit from the building department having jurisdiction indicating that substantial progress on the approved project was attained by January 1, 1973, and such licensee has on file with the county recorder and State Department of Health a valid notice of construction completion indicating January 1, 1974, as the completion date, except that the State Department of Health shall extend the foregoing dates by no more than a total of two years in the case of projects where delay has resulted from the death of the original applicant, and shall extend the foregoing dates by no more than a total of one year in the case of projects where other good cause has been shown why such extension should be granted. The exception provided for in the preceding sentence with respect to applications filed prior to January 1, 1970, except for transfers executed before November 30, 1970 or after July 1, 1971, shall not apply to transferees of the applications of the original applicants.

Voluntary area health planning agencies may extend, until July 1, 1972, the date upon which applicants, qualifying under the exception in this section, shall commence construction, if the voluntary area health planning agencies declare that good cause has been shown why such extension should be granted, provided that an applicant applying for such extension had, prior to January 1, 1970, received approval of a health planning association in the county wherein the applicant is located. Applicants receiving extension of the construction commencement date shall have on file with the State Department of Health a notarized affidavit from the building department having jurisdiction indicating that substantial progress on the approved project was attained by January 1, 1974, and have on file with the county recorder and State Department of Health a valid notice of construction completion indicating January 1, 1975, as the completion date; except that the State Department of Health shall extend each of the foregoing dates by no more than a total of one year in the case of projects where good cause has been shown why such extension should be granted.

(a) For the purposes of this section, "substantial progress" is defined and evidenced as follows:

(1) For structures of three or fewer stories, completion of the foundations and footings, the structural frame, the mechanical, electrical, and plumbing rough-in; the rough flooring, the exterior walls and windows; and the finished roof.

(2) For structures of more than three stories, a contractor's schedule of work shall be filed with the State Department of Health by January 1, 1973. Every three months thereafter, until completion, evidence shall be submitted to the department that construction is progressing on that schedule.

(b) For the purposes of this section, construction of a project is deemed commenced on the date the applicant was so notified by the State Department of Health, if so notified, or on the date the applicant has completed not less than all of the following:

(1) Submission to the appropriate state agency of a written agreement executed between the applicant and a licensed general contractor to construct and complete the facility within a designated time schedule in accordance with final architectural plans and specifications approved by such agency.

(2) Obtaining such initial permits or approval for commencing work on the project as is customarily issued for projects of the scope of applicant by the governmental agency having jurisdiction over the construction

(3) Completion of construction work on the project to such a degree as to justify and require a progress payment by the applicant to the general contractor under terms of the construction agreement

(b) The facility has proceeded after January 1, 1976, with a project included in the provisions of Section 1199 51 of the Health and Safety Code without obtaining a certificate of need as required by Section 1199 49 of the Health and Safety Code

SEC. 13. This act shall become operative January 1, 1976 "

Bill ordered reprinted, and to be re-referred to the Committee on Ways and Means.

ADJOURNMENT

At 10 30 p m , Speaker pro Tempore Papan declared the Assembly adjourned until 1 p m , Tuesday, August 26, 1975.

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNAL

FORTY-FOURTH LEGISLATIVE DAY

ONE HUNDREDTH CALENDAR DAY

IN ASSEMBLY

Assembly Chamber, Sacramento
 Tuesday, August 26, 1975

The Assembly met at 1.14 p m

Hon Leo T. McCarthy, Speaker of the Assembly, presiding.

Chief Clerk James D Driscoll at the Desk

Assistant Clerk Ray Monday reading.

ROLL CALL

The roll was called, and the following answered to their names--75:

Antonovich	Collier	Knox	Permo
Arnett	Craven	Launcester	Piolo
Badham	Cullen	Lauterman	Ralph
Bane	Davis	Lewis	Robinson
Banna	Deddeh	Lockyer	Rosenthal
Berman	Dixon	MacDonald	Siegler
Beverly	Egeland	Maddy	Sietoty
Boutwell	Fenton	McAlister	Swift
Briggs	Foran	McLennan	Thomas, Vincent
Brown	Goggin	McVittie	Thomas, William
Burke	Greene	Meade	Thurman
Calvo	Gualco	Miller	Torres
Campbell	Hart	Mobley	Tucker
Carpenter	Hayden	Montoya	Vicencia
Chacon	Hughes	Mori	Warren
Chappie	Ingalls	Murphy	Wilson
Chel	Kapiloff	Nestande	Wornum
Chimhole	Keene	Nimmo	Mr Speaker
Clue	Kejzor	Papan	

Quorum present.

PRAYER

The following prayer was offered by the Chaplain, Father Leo McAllister:

Father, You are the God of the living, not of the dead. We know in our groping faith that death is not the end of a person's life but, in a sense, the beginning. Today we sadly mourn the untimely death of one of our most esteemed colleagues, Edwin Z'berg.

We pause to say thank You, Father, for giving us this man. We thank You for the privilege of knowing him, for the dedication he brought to his life of public service, for his integrity and skill, for his concern for the greater and more noble issues. We pray that nothing of his life will be lost now that he is no longer with us, but that it will be of benefit to the world.

We pray that the goodness that he contributed will go on living in us. With confidence in Your mercy, God our Father, we know that You saw all of his goodness and that You forgive his failures.

With faith in the resurrection we pray that we will all meet again in Your presence. May Ed rest in peace.—AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker McCarthy, Mr. Kapiloff then led the Assembly in the pledge of allegiance to the Flag.

READING OF THE JOURNAL DISPENSED WITH

By unanimous consent, further reading of the Journal of the previous legislative day was dispensed with.

LEAVES OF ABSENCE FOR THE DAY

The following Members were granted leaves of absence for the day, because of illness:

Mr. Alatorre, on request of Speaker McCarthy.
Mr. Duffy, on request of Speaker McCarthy.

The following Member was granted leave of absence for the day, on personal business, and desired to waive his per diem.

Mr. Vasconcellos, on request of Speaker McCarthy.

The following Member was excused for the day, and his per diem was waived:

Mr. Garamendi.

REQUEST FOR UNANIMOUS CONSENT TO HOLD SPECIAL MEETING OF COMMITTEE

Mr. McAllister was granted unanimous consent that the Committee on Finance, Insurance, and Commerce be permitted to hold a special meeting on Wednesday, August 27, 1975, at 5 p.m., and that Joint Rule 62(a) be waived for the purpose of setting Senate Bill No. 4 for hearing on August 27, 1975.

AUTHOR'S AMENDMENTS
Committee on Judiciary

Assembly Chamber, August 26, 1975

Mr Speaker: The Chairman of your Committee on Judiciary reports:

Senate Bill No 1

With author's amendments with the recommendation: Amend, and re-refer to the Committee on Judiciary.

MILLER, Chairman

Senate Bill No. 1—An act to amend Sections 125.5, 2100, 2101, 2116, 2119, 2361, 2361.5, 2362, 2364, 2372.5, 2436, 2454, 2456, and 2458 of, to add Sections 2100.5, 2100.6, 2100.7, 2100.8, 2101.5, 2101.6, 2122, 2372, and 2372.1 to, to add Article 11 (commencing with Section 800) to Chapter 1 of Division 2 of, to add Article 2.3 (commencing with Section 2123) and Article 2.4 (commencing with Section 2124.5) to Chapter 5 of Division 2 of, to repeal Section 2372 of, to repeal Article 11 (commencing with Section 800) of Chapter 1 of Division 2 of, and to repeal Article 2.3 (commencing with Section 2123) of Chapter 5 of Division 2 of, the Business and Professions Code, to add Article 5 (commencing with Section 3362) to Chapter 2 of Title 2 of Part 1 of Division 4 of the Civil Code, to repeal and add Section 340.5 of, and to add Chapter 5 (commencing with Section 364) to Title 2 of Part 2 of the Code of Civil Procedure, to add Section 1159 to the Evidence Code, and to add and repeal Chapter 5 (commencing with Section 11890) to Part 3 of Division 2 of the Insurance Code, relating to malpractice.

Bill read second time.

Consideration of Author's Amendments

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted:

Amendment 1

In line 2 of the title of the printed bill, as amended in Senate August 7, 1975, strike out "2361.5".

Amendment 2

In line 3 of the title, after "2101.6," insert "2101.7".

Amendments 3 and 4

In line 7 of the title, strike out "2124.5", and insert "2124.6".

Amendment 5

In line 11 of the title, after "Code," insert "to amend Section 43.8 of, and".

Amendment 6

In line 13 of the title, after "4 of", insert a comma.

Amendment 7

In line 16 of the title, after "Code," insert "to add and repeal Section 11587 of,".

Amendment 8

In line 16 of the title, strike out the second "and"; and strike out line 17, and insert "Section 11917 to, and to add Chapter 5.5 (commencing with Section 11920) to Part 3".

Amendment 9

In line 18 of the title, after the second "of", insert a comma.

Amendment 10

On page 8, line 30, after "state", insert "which constitutes unprofessional conduct under Section 2383, pursuant to the reporting requirements of Section 803,".

Amendment 11

On page 8, line 36, after "services", insert ", pursuant to the reporting requirements of Section 801 or 802".

Amendment 12

On page 8, line 37, after "made", insert ", pursuant to subdivision (b) of this section; (4) disciplinary information reported pursuant to Section 805".

Amendment 13

On page 8, line 39, strike out "certificatee", and insert "certificate holder".

Amendment 14

On page 9, line 3, strike out "certificatees", and insert "certificate holders".

Amendment 15

On page 9, strike out lines 7 to 10, inclusive, and insert "Upon a determination by the committee that the complaint is without merit, the central file shall be purged of information relating to the complaint."

Amendment 16

On page 9, line 11, strike out "such", and insert "central".

Amendment 17

On page 9, line 12, strike out "person", and insert "licensee".

Amendment 18

On page 9, line 22, strike out "person", and insert "licensee".

Amendment 19

On page 9, line 30, strike out "(except a"; strike out all of line 31; and in line 32, strike out "with Section 1200) of Division 2)".

Amendment 20

On page 10, line 17, strike out "(except a"; strike out all of line 18; and in line 19, strike out "with Section 1200) of Division 2)".

Amendment 21

On page 11, line 10, strike out "(except a person licensed pursuant to"; strike out line 11; and in line 12, strike out "2)".

Amendment 22

On page 11, line 24, strike out "or Section", and insert ", 802,".

Amendment 23

On page 12, line 15, after "report", insert ", who is notified by the board within 60 days of the filing of the report,".

Amendment 24

On page 12, line 30, after "is", insert "denied staff privileges,".

Amendment 25

On page 12, line 32, after "restricted", insert "for a cumulative total of 45 days in any calendar year".

Amendment 26

On page 12, line 32, after "any", insert "medical".

Amendment 27

On page 12, line 33, strike out "10", and insert "20 working".

Amendment 28

On page 12, line 35, strike out "said", and insert "the".

Amendment 29

On page 12, line 40, after the period, insert "The reporting required herein shall not act as a waiver of confidentiality of medical records and committee reports. The information reported or disclosed shall be kept confidential except as provided in subdivision (c) of Section 800."

Amendment 30

On page 13, line 21, strike out "17", and insert "19".

Amendment 31

On page 13, line 30, strike out "17", and insert "19".

Amendment 32

On page 14, line 19, strike out "administering the recertification of"; and strike out all of line 20, and insert "adopting standards for continuing education pursuant to Section 2101.6."

Amendment 33

On page 15, line 9, strike out "Five of such"; strike out all of lines 10 and 11; in line 12, strike out "state.", and insert "Physician members of the board shall be appointed from physicians who have served at least one term on a district review committee or a medical quality review committee."

Amendments 34 and 35

On page 15, line 16, strike out "may", and insert "shall".

Amendment 36

On page 15, line 23, strike out "five", and insert "seven".

Amendment 37

On page 15, after line 40, insert "SEC. 1.13 Section 2101.7 is added to the Business and Professions Code, to read:

2101.7 The Governor may remove any member of the board for neglect of duty required by this chapter, incompetency, or unprofessional conduct."

Amendment 38

On page 16, line 1, strike out "1.13", and insert "1.14".

Amendment 39

On page 16, line 5, after "counsel," insert "medical consultants".

Amendment 40

On page 16, line 11, after "board", insert "in all judicial proceedings".

Amendment 41

On page 16, line 12, strike out "1.14", and insert "1.15".

Amendment 42

On page 16, line 19, strike out "three", and insert "five".

Amendment 43

On page 16, line 36, strike out "1.15", and insert "1.16".

Amendment 44

On page 17, line 15, strike out "1.16", and insert "1.17".

Amendment 45

On page 17, line 18, strike out "1.17", and insert "1.18".

Amendment 46

On page 17, line 37, strike out "article", and insert "chapter".

Amendment 47

On page 18, between lines 3 and 4, insert
 "(d) "Department" means the Department of Consumer Affairs "

Amendment 48

On page 18, strike out lines 5 to 23, inclusive, and insert "article, into the following 14 districts:

(a) The first district consists of the Counties of Del Norte, Siskiyou, Modoc, Humboldt, Trinity, Shasta, Lassen, Tehama, Plumas, Mendocino, Glenn, Butte, Lake, and Colusa.

(b) The second district consists of the Counties of Sierra, Yuba, Sutter, Yolo, Placer, El Dorado, and Sacramento.

(c) The third district consists of the Counties of Sonoma, Napa, and Solano.

(d) The fourth district consists of the Counties of Marin, San Francisco, and San Mateo.

(e) The fifth district consists of the Counties of Contra Costa and Alameda.

(f) The sixth district consists of the Counties of Alpine, Amador, Calaveras, Tuolumne, San Joaquin, Stanislaus, and Merced.

(g) The seventh district consists of the County of Santa Clara

(h) The eighth district consists of the Counties of San Benito, Monterey, and San Luis Obispo.

(i) The ninth district consists of the Counties of Mariposa, Madera, Fresno, Kings, Tulare, and Kern.

(j) The 10th district consists of the Counties of Santa Barbara and Ventura.

- (k) The 11th district consists of the County of Los Angeles
- (l) The 12th district consists of the Counties of Mono, Inyo, San Bernardino, and Riverside.
- (m) The 13th district consists of the County of Orange.
- (n) The 14th district consists of the Counties of San Diego and Imperial."

Amendment 49

On page 18, strike out lines 31 to 40, inclusive; and on page 19, strike out lines 1 to 19, inclusive, and insert

"(a) The first district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.

(b) The second district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysicians licentiates of a healing arts board

(c) The third district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board

(d) The fourth district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(e) The fifth district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(f) The sixth district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.

(g) The seventh district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(h) The eighth district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board

(i) The ninth district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board

(j) The 10th district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.

(k) The 11th district shall be composed of 20 members, 12 of whom shall hold valid physician's and surgeon's certificates, four of whom shall be public members, and four of whom shall be nonphysician licentiates of a healing arts board

(l) The 12th district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board

(m) The 13th district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board

(n) The 14th district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board."

Amendment 50

On page 19, line 32, strike out "adopt any rule,".

Amendment 51

On page 19, line 40, strike out "adopt any rule,".

Amendment 52

On page 21, line 9, strike out "by the board,".

Amendment 53

On page 21, line 22, strike out "if requested,".

Amendment 54

On page 21, line 22, strike out "assist and".

Amendment 55

On page 21, line 23, after "committee", insert "or panel on matters of law".

Amendment 56

On page 22, strike out lines 4 to 17, inclusive, and insert
 "(a) To initiate reviews of the quality of medical care practiced by certificate holders.

(b) To initiate investigations of complaints made by members of the public, other certificate holders, or a health care facility and referred to the committee by the Division of Medical Quality, that a certificate holder has been guilty of unprofessional conduct. All investigations made pursuant to this section shall be commenced immediately."

Amendment 57

On page 22, line 20, strike out "circumstances".

Amendment 58

On page 22, line 20, strike out "any judgment or".

Amendment 59

On page 22, line 21, strike out "settlement", and insert "judgments or settlements".

Amendment 60

On page 22, line 23, strike out "three thousand dollars (\$3,000)", and insert "a cumulative total of thirty thousand dollars (\$30,000)".

Amendment 61

On page 22, between lines 36 and 37, insert

"(g) A committee or a panel of a committee which investigates a certificate holder pursuant to this section shall not be the committee or panel of a committee which hears any disciplinary matter resulting from said investigation."

Amendment 62

On page 23, line 12, strike out "board", and insert "Division of Licensing and Examination".

Amendment 63

On page 23, line 16, strike out "board", and insert "Division of Licensing and Examination".

Amendment 64

On page 23, line 17, strike out "board", and insert "Division of Licensing and Examination".

Amendment 65

On page 23, between lines 27 and 28, insert

"2124.5 Any physician and surgeon may communicate to the committee or panel regarding any other physician and surgeon. Such communications shall remain confidential and shall not be admissible before any hearing or before any court except that the committee or panel may begin investigation on the basis of such communication and may use such communication to develop further information. Such communication, except as provided in subdivision (c) of Section 800, shall be admissible in a defamation action where it is alleged that communication is false and made with malice.

Upon a determination by the committee or panel that the communication is without merit, the central file shall be purged of information relating to the communication."

Amendment 66

On page 23, line 28, strike out "1.18", and insert "1.19".

Amendment 67

On page 23, line 29, strike out "2124.5", and insert "2124.6".

Amendment 68

On page 23, strike out lines 34 to 40, inclusive.

Amendment 69

On page 24, strike out lines 1 to 25, inclusive, and insert

"2124.6 There is hereby created under the Board of Medical Quality Assurance the Bureau of Medical Statistics. The purpose of the bureau is to provide the board and its divisions with statistical information necessary to carry out their functions of licensing, medical education, and medical quality and discipline.

2124.7. The bureau shall conduct such research deemed desirable by the board and its divisions and related to their functions To the extent feasible the bureau shall draw upon existing sources of pooled health data and may purchase such information or contract for the development of such data. The bureau may require any state agency to transmit to the bureau statistical information not privileged under law. The bureau shall not gather or maintain statistical or other information that identifies individual patients, physicians or other health care providers, except for reports required by Article 11 (commencing with Section 800) of Chapter 1 of Division 2.

2124.8 Each insurer shall, within 30 days of such termination, furnish the bureau with the names of all health care providers in this state whose malpractice liability insurance has been terminated Any health facility that denies a health care provider privileges shall report such information to the bureau pursuant to Section 805. The bureau, upon the receipt of information submitted pursuant to this section, shall immediately transmit a copy of such information to the named health care provider and the appropriate committee.

2124.9. The bureau shall be the repository for all reports filed with the board pursuant to Article 11 (commencing with Section 800) of Chapter 1 of Division 2.

2124.10. The bureau shall report at least annually to the Legislature on the data it has collected pursuant to this article Such reports and any data not privileged under the law shall also concurrently be made available to the public."

Amendment 70

On page 24, line 26, strike out "1.19", and insert "1.20".

Amendment 71

On page 25, strike out lines 11 to 27, inclusive.

Amendment 72

On page 25, line 30, strike out "Licensing and".

Amendment 73

On page 25, line 31, strike out "Examination", and insert "Medical Quality".

Amendment 74

On page 25, line 39, strike out "from the Division of Investigation of the".

Amendment 75

On page 25, line 40, strike out "department".

Amendment 76

On page 27, line 37, after "board", insert "or any of its divisions or by a committee".

Amendment 77

On page 28, line 10, after "applied", insert "solely".

Amendment 76

On page 29, line 39, after "SEC. 2.", insert "Section 43.8 of the Civil Code is amended to read:

43.8 In addition to the privilege afforded by Section 47, there shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any person on account of the communication of information in the possession of such person to any hospital, hospital medical staff, professional society, medical or dental school, or professional licensing board, or *division, committee, or panel of such licensing board*, when such communication is intended to aid in the evaluation of the qualifications, fitness or character of a practitioner of the healing arts and does not represent as true any matter not reasonably believed to be true.

SEC. 3."

Amendment 78

On page 30, line 3, strike out "Medical Practitioners", and insert "Health Care Providers".

Amendment 80

On page 30, line 36, strike out "11890 of the Insurance", and insert "3362.10 of the Civil".

Amendment 81

On page 31, line 6, strike out "11890 of the Insurance", and insert "3362 10 of the Civil".

Amendment 82

On page 31, line 22, strike out "11890 of the Insurance", and insert "3362 10 of the Civil".

Amendment 83

On page 31, line 40, and on page 32, line 1, strike out "11890 of the Insurance", and insert "3362 10 of the Civil".

Amendment 84

On page 32, line 11, after "earnings", insert "after payment of state and federal income taxes".

Amendment 85

On page 32, lines 13 and 14, strike out "11890 of the Insurance", and insert "3362 10 of the Civil".

Amendment 86

On page 32, line 32, after the period, insert "The aggregate amount of such judgment shall not exceed the amount otherwise awardable as a lump sum."

Amendment 87

On page 34, line 2, strike out "11890 of the Insurance", and insert "3362.10 of the Civil".

Amendment 88

On page 35, line 12, strike out "SEC. 3", and insert

"3362.10. "Health care provider" means any of the following:

(a) Every person licensed pursuant to the Dental Practice Act (Chapter 4 (commencing with Section 1600) of Division 2 of the Business and Professions Code).

(b) Every person licensed pursuant to the State Medical Practice Act (Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code).

(c) Every person licensed pursuant to the Nursing Practice Act (Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code).

(d) Every person licensed pursuant to the Vocational Nursing Practice Act (Chapter 6.5 (commencing with Section 2840) of Division 2 of the Business and Professions Code)

(e) Every person licensed pursuant to Chapter 7 (commencing with Section 3000) of Division of the Business and Professions Code

(f) Every person licensed pursuant to the Chiropractic Initiative Act.

(g) Every person licensed pursuant to the Osteopathic Initiative Act.

(h) Every person licensed pursuant to Chapter 3 (commencing with Section 1200) of Division 2 of the Business and Professions Code

(i) Every person licensed pursuant to the Psychology Licensing Law (Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code).

(j) Every general acute care hospital, as defined in Section 1250 of the Health and Safety Code.

SEC. 4".

Amendment 89

On page 35, line 14, strike out "SEC. 4", and insert "SEC. 5".

Amendment 90

On page 35, line 17, strike out "11890 of the Insurance", and insert "3362.10 of the Civil".

Amendment 91

On page 35, line 30, strike out "a foreign object", and insert "an unintentionally introduced foreign object or substance".

Amendment 92

On page 36, line 4, strike out "SEC 5", and insert "SEC. 6".

Amendment 93

On page 36, line 12, strike out "11890 of the Insurance", and insert "3362.10 of the Civil".

Amendment 94

On page 36, line 26, strike out "SEC. 6", and insert "SEC. 7".

Amendment 95

On page 36, line 30, strike out "11890 of the Insurance", and insert "3362.10 of the Civil".

Amendment 96

On page 36, between lines 34 and 35, insert

"SEC. 8. Section 11587 is added to the Insurance Code, to read:

11587. (a) Any insured person who holds a certificate or license issued pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, a license issued pursuant to the Osteopathic Initiative Act, or a license as a health facility pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, who alleges to be aggrieved by any medical malpractice insurance rate adopted by an insurer licensed pursuant to Part 2 (commencing with Section 680) of Division 1 may, in writing, request of such insurer an explanation of the composition of such rate and of its application to him. If such explanation is alleged to be inadequate, insufficient, or is not provided within 30 days after making the request therefor, such person may file a simple petition for hearing with the commissioner. The commissioner shall conduct public hearings within 15 days after a petition has been filed with him to determine whether such rate is justified, according to the provisions of Chapter 9 (commencing with Section 1850) of Part 2 of Division 1.

The public hearing shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, except that any affected person, or his legal representative, shall, upon application to the commissioner at least five days prior to the hearing, be allowed to reasonably participate in the examination of the insurer. The commissioner shall determine within 45 days after such petition has been filed whether such rate is so justified. In the event the commissioner finds such rate, or some part thereof, not to be so justified, he shall inform the insurer, in detail, of the facts upon which he bases his conclusion and of the specific provisions of law upon which he relies. In addition, the commissioner shall order the insurer to either reduce the rate to the level deemed by him to be justified or cancel the policy upon 60 days notice to the insured and tender to the insured all of the then unearned premium due such insured. Such order shall be effective 15 days from the date thereof, upon which date such insurer shall mail any cancellation notice required to be given an affected insured.

(b) For the purposes of this section, two or more petitions received by the commissioner alleging grievances concerning one rate adopted by an insurer shall be considered, heard, and determined simultaneously. If additional such petitions alleging substantially similar grievances are received by the commissioner after the issuance of a determination by him upon earlier filed petitions as herein provided, such additional petitions shall be automatically subject to such determination, which fact the commissioner shall communicate in writing to the petitioner and his insurer. The commissioner shall disregard and deny

any petition alleging grievances based upon any rate increase not greater than 10 percent of the annualized rate previously charged the petitioner.

(c) Prior to such public hearing the insurer shall submit to the commissioner such information as the commissioner may require to justify the rate increase. Such information shall be a public record and shall be made available upon request to any person, provided that the requesting person shall pay the reasonable cost for the reproduction of such information.

(d) The commissioner shall have the authority to subpoena all books, records, data, and persons deemed necessary to make such a finding pursuant to subdivision (a)

(e) The provisions of this section shall remain in force and effect until December 31, 1976, and on that date, this section is repealed, except that they shall continue in effect from year to year upon a finding by the Insurance Commissioner 30 days prior to the beginning of each year that there still exists a malpractice insurance crisis."

Amendment 97

On page 36, strike out lines 35 to 37, inclusive, and insert

"SEC. 9. Section 11917 is added to the Insurance Code, to read:

11917. The board of directors of the association shall, effective January 1, 1976, amend its plan of operation to authorize the execution of an agreement, with the California Medical Malpractice Joint Underwriting Association authorized by Chapter _____ of the 1975-76 Third Extraordinary Session whereby all rights, obligations, powers, privileges, books, records, assets, and liabilities of the association shall, as of January 1, 1976, be transferred to, assumed by and delegated to the California Medical Malpractice Joint Underwriting Association, whether such matters be contingent, remote, vested or inchoate. Such transfer shall not impair or restrict any contract or other right created by this chapter and shall be nontaxable. Such agreement shall be approved by the commissioner and shall be executed within five days after the issuance of his order of approval.

SEC 10. Chapter 55 (commencing with Section 11920) is added to Part 3 of Division 2 of the Insurance Code, to read:

CHAPTER 5.5. CALIFORNIA MEDICAL MALPRACTICE JOINT UNDERWRITING ASSOCIATION

Article 1. Definitions

11920. As used in this act:

(1) "Association" means the California Medical Malpractice Joint Underwriting Association established pursuant to the provisions of this chapter.

(2) "Commissioner" means the Insurance Commissioner of this state.

(3) "Reform commission" means the California Medical Malpractice Negligence Law Reform Commission established pursuant to the provisions of this chapter.

(4) "Health care provider class A" means any person licensed pursuant to the provisions of Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act. "Health care provider class B" means any person licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code (except skilled nursing facilities). Both such classes shall include the successor in interest or legal representative of such licensees.

(5) "Medical malpractice insurance" means insurance coverage against the legal liability of the insured against loss, damage, or expense incident to a claim arising out of the death or injury of any person as the result of negligence or malpractice in rendering professional service by any licensed health care provider, either class A or class B.

(6) "Net direct premiums" means gross direct premiums written on liability insurance, including the liability portion of multiperil policies, of all-risk policies, and of automobile insurance policies, less return premiums, dividends, paid or credited to policyholders, and any surplus premium deposits. "Net direct premiums" shall not mean any reinsurance premiums or premiums for ocean marine insurance.

(7) "Advance sums" means any contribution required by this chapter to be made by members of the association to the association as necessary for its sound financial operation.

(8) "Predecessor body" means the joint underwriting association established by Chapter 93 of the Statutes of 1973, if the commissioner has made any finding of substantial unavailability authorized by subdivision (b) of Section 11895 prior to the effective date of this chapter.

Article 2. Joint Underwriting Association

11921. (a) Within 10 days after the effective date of this chapter, the commissioner shall convene a meeting of all those insurers authorized to transact and engaged in transacting within this state, on a direct basis, liability insurance including the liability portion of multiperil policies, of all-risk policies and of automobile insurance policies but not of ocean marine insurance nor of reinsurance. At such meeting such insurers shall establish the California Medical Malpractice Joint Underwriting Association. Every such insurer shall be a member of the association and shall remain a member as a condition of its authority to continue to transact such kind of insurance in this state. All such insurers, on and after the effective date of this chapter, by continuing to hold a certificate of authorization to transact such liability insurance, shall be deemed to have consented to the responsibilities imposed by this chapter.

(b) Within 30 days after the effective date of this chapter, the directors of the association shall submit to the commissioner for his review a proposed plan of operation consistent with the provisions of this chapter. The plan of operation shall provide for economic, fair, and nondiscriminatory administration and for the prompt and efficient provision of medical malpractice insurance, and shall contain other

provisions including, but not limited to, the advancement of sums by all members for initial expenses necessary to commence operations, establishment of necessary facilities, administration of the association, financing techniques for the association, commission arrangements, reasonable and objective underwriting standards, acceptance and cession of reinsurance, appointment of servicing carriers or other servicing arrangements, installment payment of premiums during periods not to exceed 365 days, and procedures for determining amounts of insurance to be provided by the association. Such plan shall give due consideration to, and to the extent desirable and consistent with the provisions of this chapter, be coincident with the plan of operation of the predecessor body. Such a plan may make separate provision, to the extent necessary, for insurance to be issued to health care provider class A and health care provider, class B

(c) The plan of operation shall be subject to approval by the commissioner. If the commissioner disapproves all or any part of the proposed plan of operation, the directors shall, within 10 days, submit for review an appropriate revised plan of operation or a part thereof. If the directors fail so to act, the commissioner shall promulgate a plan of operation or a part thereof, as the case may be. The plan of operation approved or promulgated by the commissioner shall become effective and operational upon order of the commissioner, who shall act not later than 45 days from the effective date of this chapter.

(d) Amendments to the plan of operation may be made by the directors of the association, subject to the approval of the commissioner, or shall be made at the direction of the commissioner.

(e) The association shall periodically consult with the screening committee of the medical society of any county with respect to which the commissioner has made the finding authorized by Section 11926 for assistance in determining whether applicants for insurance meet the underwriting standards of the association promulgated in the plan of operation.

(f) On the effective date of this chapter, and consistent with the provisions of this chapter, the commissioner shall forthwith modify and adopt, as an interim plan of operation, any plan adopted by predecessor body, to remain in effect until the adoption of a plan of operation hereunder.

11926. The association shall be governed by a board of 11 directors who shall initially be the same persons as the directors of the predecessor body. Any vacancy in such board shall forthwith be filled by appointment by the commissioner of a qualified person or entity to serve until the termination of the current period of office in which such vacancy occurs. Thereafter, such directors shall be elected annually. Seven of such directors, of which four shall be domestic insurers and three shall be foreign insurers, shall be elected at a time and place designated by the commissioner from the members of the association. The four remaining directors shall be licensed physicians practicing in counties declared eligible for medical malpractice insurance through the association.

11927. (a) Except as provided in this section, the association shall be the exclusive agency through which medical malpractice insurance may be transacted on a primary basis for any health care provider in any county in this state. The association may operate in any such county only upon a finding by the commissioner, after public hearing, that medical malpractice insurance is not substantially available to health care providers through private insurers operating therein and that such county is eligible for insurance through the association. Thereafter, if the commissioner determines, upon application of any interested party and after public hearing, that there is a substantial likelihood that medical malpractice insurance will become available through private insurers in any such county with respect to which he has previously made such finding, the association shall thereupon cease its underwriting operations in such county. In either event, the commissioner shall make separate findings with respect to health care providers, class A, and health care providers, class B. In the event the commissioner has made any similar such findings with respect to such classes under Section 11895, such findings shall, for the purposes of this chapter, be deemed to have been made under this chapter as of the effective date of this chapter.

(b) Nothing contained in this chapter shall prohibit the offer, sale, issuance, delivery, or renewal of any policy of medical malpractice insurance in any of the following situations.

(1) Which provides coverage only in excess of the maximum coverage offered by the association pursuant to the plan of operation.

(2) To an applicant who has been denied medical malpractice insurance by the association for failure to satisfy the underwriting standards of the association as prescribed in the plan of operation

(3) To a health care provider, class B, subsequent to a finding pursuant to subdivision (a), if such policy of medical malpractice insurance includes coverage for liabilities arising within the scope of employment of physicians employed by the health care provider, class B.

(c) Nothing contained in this chapter shall affect the validity of any policy of medical malpractice insurance lawfully issued or delivered prior to the effective date of the plan of operation, or issued or delivered by predecessor body.

(d) Nothing contained in this chapter shall prohibit the renewal of any policy of medical malpractice insurance lawfully issued or delivered prior to a finding made pursuant to subdivision (a) hereof, provided, however, that immediately after such renewal, the insurer shall insure and continue to insure an approximately representative sample of rating classifications so that no substantial adverse selection against the association shall result. In order to ensure compliance with this subdivision, each such insurer so renewing shall provide the commissioner with a monthly summary, due the 10th day of each succeeding month, containing such information and in such form as the commissioner shall specify. The commissioner shall have the power to inspect each such insurer's books and records upon prior notice, at any time to obtain such other information he deems necessary.

(e) Except as herein provided, no policy of medical malpractice insurance shall be offered, sold, issued or delivered to a class A or class B health care provider in any county declared eligible by the commissioner except by or through the association

11928 The purpose of the association shall be to provide, for the calendar year 1976, a contingent market for medical malpractice insurance on a self-supporting basis without ultimate subsidy from association members

11929 The association shall, pursuant to provisions of this article and the plan of operations with respect to medical malpractice insurance, have the power on behalf of its members to do any of the following:

(a) Issue or to cause to be issued policies of insurance to applicants including incidental coverages and subject to limits as specified in the plan of operation but not to exceed one million dollars (\$1,000,000) for each claimant under one policy and three million dollars (\$3,000,000) for all claimants under one policy in any one year

(b) Underwrite such insurance and adjust and pay losses with respect thereto or appoint service companies to perform those functions.

(c) Assume reinsurance from its members

(d) Cede reinsurance

(e) Assume the rights and obligations of the predecessor body

Such powers may be exercised directly or by contractual assumption and delegation.

11930. All medical malpractice insurance policies issued by the association shall be on an occurrence basis only, and the policy form therefor shall be filed with the commissioner. Such policies shall provide for continuous coverage commencing with their respective effective dates and terminating automatically not later than December 31, 1976. Such policies shall be assessable and shall make provision for payment of dividends

11931 The policy shall provide that the association may cancel the same in the event of nonpayment of any premium assessment or other charge by mailing or delivering to the insured at the address shown in the policy written notice stating when, not less than 10 days thereafter, cancellation shall be effective

11932 (a) The rates, rating plans, rating rules, rating classifications, and territories applicable to insurance written by the association, and the statistics relating thereto, shall be subject to the provisions of Chapter 9 (commencing with Section 1850) of Part 2 of Division 1, giving due consideration to the past and prospective loss and expense experience of medical malpractice insurers, trends in the frequency and severity of losses, the investment income of the association, and such other information as may be relevant. All rates shall be on an actuarially sound basis, giving due consideration to a group retrospective rating plan, and shall be calculated to be self-supporting. Such rates shall be deemed not inadequate if they are so constituted that the expense and loss costs of the association are equal to or exceeded by premium. Competition or lack thereof shall not be considered as a rating standard thereunder.

(b) All policies issued by the association shall be subject to a non-profit group retrospective rating plan under which the final premium for all policyholders of the association as a group, shall be equal to administrative expenses, loss and loss adjustment expenses, and taxes, plus an allowance for contingencies and servicing. Policyholders shall be given full credit for all investment income, net of expenses and a reasonable management fee, on policyholder supplied funds. The final premium for all policyholders of the association, as a group, shall be limited as provided in this chapter.

The commissioner shall make the examination provided for under Article 6 (commencing with Section 1857) of Chapter 9 of Part 2 of Division 2 as often as he deems appropriate to ensure that the group retrospective rating plan is being operated in a manner consistent with this section. If he finds that it is not being so operated, he shall issue an order to the association, specifying in what respect its operation is deficient and stating what corrective action shall be taken.

11933 All members of the association shall participate in its writings, expenses, servicing allowances, management fees, profits and losses in the proportion that the net direct premium of each member (excluding that portion of premium attributable to the operation of the association) transacted during the immediately preceding calendar year bears to the aggregate net direct premium written in this state by all members of the association. Each member's participation in the association shall be determined annually on the basis of such net direct premium written during the preceding calendar year. No member shall participate in any loss or expense in any one year in an amount in excess of 1 percent of its surplus to policyholders attributable to liability insurance or the liability portion of multiperil, all-risk or automobile insurance written in this state.

11934 In the event that sufficient funds are not available at any time for the sound financial operation of the association pending recoupment as provided in Section 11936, all members shall contribute to the financial requirements of the association by payment of advance sums in the manner provided for in Section 11935. Any such advance sums shall be reimbursed to the members following recoupment as provided in Section 11936. The necessity for, amount of, and payment date of any advance sums shall be determined by the commissioner. Interest at a rate equal to 2½ percent per annum above the then current rediscount rate of the Federal Reserve Bank of San Francisco shall be added to the advance sums payable by any member which fails to submit such sum requested by the commissioner within 30 days after such request. In no event, however, shall the interest rate exceed the legal maximum.

11935 Upon order of the commissioner, all insurers who are members of the association shall pay advance sums to the association in the proportion that the net direct premiums of each such member (excluding that portion of premiums attributable to the operation of the association or predecessor body) written during the immediately preceding calendar year bears to the aggregate net direct premiums written in this state by all members of the association. The amount of advance sums

payable by each insurer shall be determined annually on the basis of such net direct premiums written during the preceding calendar year, as reported in the annual statements and other reports filed by the insurer with the commissioner. No member shall be obligated in any one year to pay advance sums to the association on account of its proportionate share in the initial expenses or the loss from operations of the association in that year in excess of 1 percent of its surplus to policyholders attributable to liability insurance or the liability portion of multiperil, all-risk or automobile insurance written in this state

11936. Within 30 days of the commencement of each calendar year, the association shall certify to the commissioner the amount of all advanced sums paid it during the preceding year, beginning with the year 1978. Within 45 days after such certification, the commissioner shall authorize the association to commence recoupment of such advanced sums by making an equitable assessment against persons who obtained insurance through the association or predecessor body. Any member of the association paying advance sums shall annually be entitled, on or after a date fixed by the board of directors, to recoup all such advance sums, together with interest thereon at the legal rate, from the association out of a reserve established by it for such purposes. Such reserve shall be funded by premium or by assessment income derived as herein provided.

11937. Any member of a class of health care provider operating in a county declared eligible by the commissioner shall on or after the effective date of the plan of operations, be entitled to apply to the association for medical malpractice insurance. Such application may be made on behalf of an applicant by a broker or agent authorized by the applicant.

If the association determines that the applicant meets the underwriting standards of the association as prescribed in the plan of operation, the association upon receipt of the premium or such portion thereof as is prescribed in the plan of operation, shall cause to be issued a policy of medical malpractice insurance.

11938. Any applicant to the association, any person insured pursuant to this article, or their representatives, or any affected member, may appeal to the board of directors within 30 days after any ruling, action or decision by or on behalf of the association with respect to those items the plan of operation defined by the board of directors as appealable matters. Any decision of the board may be appealed to the commissioner within 30 days subsequent to such action. All orders of the commissioner made pursuant to this chapter shall be subject to judicial review.

11939. The association shall file in the office of the commissioner, annually on or before the first day of March, a statement which shall contain information with respect to its transactions, condition, operations, and affairs during the preceding year. Such statement shall contain such matters and information as are prescribed and shall be in such form as is approved by the commissioner. The commissioner may, at any time, require the association to furnish additional information

with respect to its transactions, condition or any matter connected therewith considered to be material and of assistance in evaluating the scope, operation and experience of the association

11940. The commissioner shall make an examination into the affairs of the association at least annually. Such examination shall be conducted and the report thereon filed in the manner prescribed in Article 4 (commencing with Section 730) of Chapter 1 of Part 2 of Division 1.

Article 3. General Provisions

11945. There shall be no liability on the part of, and no cause of action of any nature shall arise against the reform commission, the association or its members, the commissioner or his authorized representatives, any county medical society or any other person or organization, for any statements made in good faith by them during any proceeding or concerning any matters within the scope of this chapter

11946. The association shall not be a member of the California Insurance Guaranty Association nor shall that latter association be otherwise responsible for losses sustained by the association.

11947. In accordance with the plan of operation, the association may appoint one or more of its members as a servicing company. Each servicing company shall be reimbursed by the association for all reasonable expenses it incurs and for all payments it makes on behalf of the association. Each servicing company shall have authority to perform any functions of the association that the board of directors lawfully may delegate to it, and to do so on behalf of and in the name of the association. The designation of servicing companies shall be subject to the approval of the commissioner.

11948. Upon the approval by the commissioner, the association shall have the authority to borrow funds when necessary to effectuate the provisions of this chapter

11949. The association, either in its own name or through servicing companies, may sue and be sued and may use the courts to assert or defend any rights the association may have by virtue of this chapter as reasonably necessary to fully effectuate the provisions thereof

11950. The association shall be the successor-in-interest to the joint underwriting association established pursuant to Chapter 5 (commencing with Section 11890) of Part 3 of Division 2. The plan of operation shall, by operation of law, provide for the assumption and transfer of and delegation to the association of all books and records, responsibilities, powers, privileges, rights, obligations, assets and liabilities of such joint underwriting association, whether existing, contingent, remote, vested or inchoate, retroactive to the effective date of this chapter. All rights, obligations, powers, and privileges under any insurance policies issued by such joint underwriting association shall be assumed by and delegated to the association and the plan of operation shall so provide. All such policies shall be deemed to have been issued by the association and shall be administered by it pursuant to provisions of the plan; provided, however, that any contractual

rights, including those relating to insured liabilities and premium and assessment rights, shall continue to subsist and shall not be impaired or restricted by the association. The association shall administer such policies and their attendant claims, rights and obligations in a manner which is segregated and distinct from other business of the association.

11951. The commissioner shall, on or before the first day of July in each year commencing in 1976, make a report to the Governor, the Speaker of the Assembly, and the President pro Tempore of the Senate, regarding the transactions, condition, operations, and affairs of the association during the preceding year, and such other matters concerning the medical malpractice insurance business deemed appropriate by him.

Article 4. Negligence Law Reform

11955. (a) The California Medical Malpractice Negligence Law Reform Commission is hereby created, consisting of the following members: the Insurance Commissioner; the Director of the State Department of Health; a representative of the California Medical Malpractice Underwriting Association, selected by its board of directors, two members of the medical profession and one insurance agent or broker, all designated by the Speaker of the Assembly, two members of the State Bar and two insurers, all designated by the Senate Rules Committee. One Member of the Senate, designated by the Senate Rules Committee, and one Member of the Assembly, designated by the Speaker, shall serve as ex officio members.

(b) The Insurance Commissioner shall be the chairman of the reform commission. A majority of the members thereof shall constitute a quorum for the transaction of business.

(c) Any state official who is a member of the reform commission may designate an employee of his agency as a delegatee of his powers and duties on the reform commission.

(d) On or before December 31, 1976, the reform commission, after consulting publicly and privately with affected parties and any state or federal agency, shall prepare and submit to the Legislature a report of its review of the operation of the common law of negligence as applied to medical malpractice, including both procedural and substantive aspects thereof. The reform commission shall also consider the impact of such body of law on the insurance mechanism and the insurability, licensing, disciplining and qualifications of licensed physicians and other health care providers. The reform commission may make such interim reports as it deems desirable.

(e) The reform commission shall recommend such changes in the tort law and in the laws governing health care providers as it deems necessary with a view toward reducing the incidence of medical injuries, reducing the cost of litigating the consequences of such injuries, reducing the cost of administering the insurance mechanism therefor, and altering standards for eligibility for and nature and amounts of compensation for persons so injured or alleging themselves to be so injured.

SEC 11 On December 31 1976 Sections 11926 and 11937 of the Insurance Code as added by Section 9 of this act shall cease to be effective, after which time no new or renewal policies of medical malpractice insurance shall be issued by the California Medical Malpractice Joint Underwriting Association Except as herein provided, all other sections of the Insurance Code added by Section 9 of this act shall remain in effect all then-issued policies of medical malpractice insurance shall continue in force until their expiration or cancellation, and the California Medical Malpractice Joint Underwriting Association shall continue to operate as provided in this act until all insured liabilities of such association are extinguished

SEC 12 The Legislature hereby declares its intent that, to the maximum extent possible this act shall be construed in such a manner as will preserve its validity as a whole, whether or not particular provisions or applications are held invalid If any provisions of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application To this end, the provisions of this act are declared to be severable

SEC 13 No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act."

Amendment 98

Strike out pages 37 to 46, inclusive.

Bill ordered reprinted, and to be re-referred to the Committee on Judiciary.

AUTHOR'S AMENDMENTS

Committee on Judiciary

Assembly Chamber August 26, 1975

Mr Speaker The Chairman of your Committee on Judiciary reports

Senate Bill No 7

With author's amendments with the recommendation Amend and re-fer to the Committee on Judiciary.

MILLER Chairman

Senate Bill No. 7—An act to amend Sections 125 5, 2100, 2101, 2116, 2119, 2361, 2361 5, 2362, 2364, 2372 5, 2436, 2454, 2456, and 2458 of, to add Sections 2100 5, 2100 6, 2100 7, 2100 8, 2101 5, 2101 6, 2122, 2361 3, 2372, and 2372 1 to, to add Article 11 (commencing with Section 800) to Chapter 1 of Division 2 of, to add Article 2 3 (commencing with Section 2123) and Article 2 4 (commencing with Section 2124.5) to Chapter 5 of Division 2 of, to add Article 8 5 (commencing with Section 6146) to Chapter 4 of Division 3 of, to repeal Section 2372 of, to repeal Article 11 (commencing with Section 800) of Chapter 1 of Division 2 of, and to repeal Article 2 3 (commencing with Section 2123) of Chapter 5 of Division 2 of, the Business and Professions Code, to amend Section 43 8 of, and to add Section 3333 1 to the

Civil Code; to amend Sections 3405 and 10945 of, and to add Section 667.7 to, the Code of Civil Procedure, to add Division 17 (commencing with Section 21005) to the Health and Safety Code, and to add Sections 11587 and 11588 to the Insurance Code, relating to health.

Bill read second time.

Consideration of Author's Amendments

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted.

Amendment 1

On page 8, line 10, of the printed bill, as amended in Senate August 14, 1975, after "of", insert "a".

Amendment 2

On page 8, line 23, strike out "certificatees", and insert "certificate holders".

Amendment 3

On page 8, line 32, strike out "person", and insert "licensee".

Amendment 4

On page 9, line 2, strike out "person", and insert "licensee".

Amendment 5

On page 17, line 8, strike out "article", and insert "chapter".

Amendment 6

On page 17, between lines 14 and 15, insert

"(d) "Department" means the Department of Consumer Affairs "

Amendment 7

On page 21, strike out lines 15 and 16, and insert

"(a) To initiate reviews of the quality of medical care practices".

Amendment 8

On page 21, strike out lines 18 and 19, and insert

"(b) To initiate investigations of complaints made by".

Bill ordered reprinted, and to be re-referred to the Committee on Judiciary.

MOTION TO RECONSIDER ASSEMBLY BILL NO. 4 CONTINUED

By unanimous consent, the motion to reconsider the vote on Assembly Bill No. 4 was continued until the next legislative day

ADJOURNMENT

At 1 15 p.m., Speaker McCarthy declared the Assembly adjourned until 9 a.m., Wednesday, August 27, 1975

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNALFORTY-FIFTH LEGISLATIVE DAY
ONE HUNDRED FIRST CALENDAR DAY**IN ASSEMBLY**Assembly Chamber, Sacramento
Wednesday, August 27, 1975

The Assembly met at 10 31 a m

Hon Louis J. Papan, Speaker pro Tempore of the Assembly, pre-
siding

Chief Clerk James D Driscoll at the Desk.

Assistant Clerk Ray Monday reading.

ROLL CALL

The roll was called, and the following answered to their names—77:

Alatorre	Collier	Keene	Papan
Antonovich	Craven	Knob	Perino
Arnett	Cullen	Lancaster	Priolo
Badham	Davis	Lanctuanan	Ralph
Bane	Deddeh	Lewis	Robinson
Bannai	Dixon	Lockyer	Rosenthal
Berman	Duffy	MacDonald	Siegler
Beverly	Egeland	Maddy	Sieroty
Boatwright	Fenton	McAlister	Sutt
Briggs	Foran	McLennan	Thomas Vincent
Brown	Garamendi	McVittie	Thomas, William
Burke	Goggin	Meade	Thurman
Calvo	Greene	Miller	Torres
Campbell	Guilco	Mobley	Tucker
Carpenter	Hart	Montoya	Vicencia
Chacon	Hayden	Mori	Watten
Chappie	Hughes	Murphy	Wilson
Chel	Ingalls	Nestande	Wornum
Chimbole	Kapiloff	Nimmo	Mi Speaker
Chine			

Quorum present.

PRAYERUpon invitation of Speaker pro Tempore Papan, the prayer was
offered by Hon John L E Collier, Member, 61st District**PLEDGE OF ALLEGIANCE TO THE FLAG**Upon request of Speaker pro Tempore Papan, Mi Nunmo then led
the Assembly in the pledge of allegiance to the Flag.

②

MOTION TO DISPENSE WITH READING OF THE JOURNAL

Further reading of the Journal of the previous legislative day was dispensed with on motion of Mr Boatwright, seconded by Mr MacDonald.

LEAVES OF ABSENCE FOR THE DAY

The following Members were granted leaves of absence for the day, on personal business, and desired to waive their per diem

Mr Keysor, on request of Speaker pro Tempore Papan

Mr. Vasconcellos, on request of Speaker pro Tempore Papan.

COMMUNICATIONS

Assembly Chamber, August 27, 1975

Mr. Speaker Pursuant to your instructions, the Chief Clerk has examined Assembly Bill No 2

And reports the same correctly engrossed

JAMES D DRISCOLL, Chief Clerk

Above bill re-referred to committee

**CONSIDERATION OF DAILY FILE
UNFINISHED BUSINESS****MOTION TO RECONSIDER ASSEMBLY BILL NO. 4**

In compliance with a motion given on a previous day, Mr Goggin moved that the vote whereby Assembly Bill No 4 was refused passage be reconsidered.

The roll was called.

Call of the Assembly

Pending the announcement of the vote, Mr Beverly moved a call of the Assembly

Motion carried Time, 10 40 a m

The Speaker pro Tempore directed the Sergeant at Arms to close the doors, and to bring in the absent Members.

**PROCEEDINGS UNDER CALL OF THE ASSEMBLY
BY UNANIMOUS CONSENT****TEMPORARY SUSPENSION OF ASSEMBLY RULES**

Mr Berman was granted unanimous consent that the Assembly Rules be temporarily suspended for the purpose of placing a call of the Assembly on any matter before the House, and to permit the Assembly to conduct further business while under a call of the House

RECESS

By unanimous consent, at 10 41 a m, Speaker pro Tempore Papan declared the Assembly recessed.

REASSEMBLED

At 11 35 a.m, the Assembly reconvened

Hon. Julian Dixon, Member of the Assembly, 49th District, presiding.

**CALL OF THE ASSEMBLY DISPENSED WITH ON MOTION TO
RECONSIDER ASSEMBLY BILL NO. 4**

At 11:36 a m., on motion of Mr Beverly, and in the absence of any objection, further proceedings under the call of the Assembly were dispensed with.

The vote whereby Assembly Bill No. 4 was refused passage reconsidered by the following vote:

AYES—41

Alatorre	Fenton	Knox	Rosenthal
Bane	Foran	Lockier	Siegler
Berman	Garamendi	McAlister	Sieroty
Boatwright	Goggin	McVittie	Suitt
Calvo	Greene	Meade	Torres
Carpenter	Gualco	Miller	Vicencia
Chacon	Hart	Montoya	Warren
Chimbole	Hughes	Mori	Wilson
Dixon	Ingalls	Ralph	Wornum
Duffy	Kapiloff	Robinson	Mr Speaker
Egeland			

NOES—32

Antonovich	Chapple	Keene	Murphy
Arnett	Chel	Launster	Nimmo
Badham	Chne	Lauterman	Papan
Banna	Collier	Lewis	Perino
Beverly	Craven	MacDonald	Priolo
Briggs	Cullen	Maddy	Thomas, Vincent
Burke	Deddeh	McLennan	Thomas, William
Campbell	Hajden	Mobley	Tucker

Request for Unanimous Consent to Pass Assembly Bill No. 4 on File

Mr Goggin asked for unanimous consent that Assembly Bill No 4 be passed on file

Mr. Briggs withheld unanimous consent.

Motion to Pass Assembly Bill No. 4 on File

Mr. Goggin moved that Assembly Bill No 4 be passed on file.

Objections Withdrawn

Mr. Briggs withdrew his objections to passing Assembly Bill No. 4 on file

Assembly Bill No 4 passed on file.

COMMITTEE MEETING CANCELED

Mr. McAlister announced that the meeting of the Committee on Finance, Insurance, and Commerce scheduled for 5 p m today had been canceled.

ADJOURNMENT

At 11:40 a m, Acting Speaker Dixon declared the Assembly adjourned until 1 p m, Thursday, August 28, 1975.

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNAL

FORTY-SIXTH LEGISLATIVE DAY
ONE HUNDRED SECOND CALENDAR DAY

IN ASSEMBLY

Assembly Chamber, Sacramento
Thursday, August 28, 1975

The Assembly met at 4 01 p.m.

Hon Julian C. Dixon, Member of the Assembly, 49th District, presiding.

Chief Clerk James D Driscoll at the Desk.

Assistant Clerk Ray Monday reading

ROLL CALL

The roll was called, and the following answered to their names—76.

Alatorre	Chue	Kapiloff	Nimmo
Antonovich	Collier	Keene	Papan
Arnett	Craven	Keysor	Perino
Badham	Cullen	Knob	Ralph
Bane	Davis	Lancaster	Robinson
Bannai	Deddeh	Lanterman	Rosenthal
Berman	Dixon	Lewis	Siegler
Beverly	Duffy	Lockyer	Sieroty
Boatwright	Egeland	MacDonald	Snitt
Briggs	Fenton	Maddy	Thomas, Vincent
Brown	Foran	McAbster	Thomas, William
Burke	Garamendi	McLennan	Thurman
Calvo	Goggin	McVittie	Torres
Campbell	Greene	Meade	Tucker
Carpenter	Gualco	Miller	Vicencia
Chacon	Hart	Mobley	Warren
Chappie	Hayden	Mori	Wilson
Chel	Hughes	Murphy	Worrum
Chimbole	Ingalls	Nestande	Mt. Speaker

Quorum present.

PRAYER

The following prayer was offered by the Chaplain, Father Leo McAllister:

Teach Us, Lord, To be patient It is difficult to remain silent for so long while others seem never to cease talking. Direct us to be patient with one another so that we may maintain the spirit of love and hopefulness. Show us how to become peacemakers who joyfully bring happiness into the lives of others. Show us how to esteem others and respect their right to an opinion or conviction which differs from ours. Help us at all times to be joyful in spirit —AMEN

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Acting Speaker Dixon, Mr. Tucker then led the Assembly in the pledge of allegiance to the Flag.

MOTION TO DISPENSE WITH READING OF THE JOURNAL

Further reading of the Journal of the previous legislative day was dispensed with on motion of Mr. Briggs, seconded by Mr. Lewis.

LEAVES OF ABSENCE FOR THE DAY

The following Members were granted leaves of absence for the day, on personal business, and desired to waive their per diem:

Mr. Priolo, on request of Acting Speaker Dixon
 Mr. Montoya, on request of Acting Speaker Dixon
 Mr. Vasconcellos, on request of Acting Speaker Dixon

BILLS PASSED ON FILE AND PLACED UPON THE INACTIVE FILE

Assembly Bill No. 4—Passed on file, and placed upon the inactive file pursuant to the Assembly Rules.

REPORTS OF STANDING COMMITTEES**Committee on Ways and Means**

Assembly Chamber, August 27, 1975

Mr. Speaker: Your Committee on Ways and Means reports.

Assembly Bill No. 2

With the recommendation: That the bill be re-referred to the Committee on Health.

FORAN, Chairman

Above bill re-referred to the Committee on Health.

ADJOURNMENT

At 4:02 p. m., Acting Speaker Dixon declared the Assembly adjourned until 1 p. m., Friday, August 29, 1975.

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNAL

FORTY-SEVENTH LEGISLATIVE DAY
ONE HUNDRED THIRD CALENDAR DAY

IN ASSEMBLY

Assembly Chamber, Sacramento
Friday, August 29, 1975

The Assembly met at 3 50 p m

Hon Leo T McCarthy, Speaker of the Assembly, presiding.

Chief Clerk James D Driscoll at the Desk.

Assistant Clerk Ray Monday reading

ROLL CALL

The roll was called, and the following answered to their names—74:

Alatorre	Craven	Keyser	Papan
Antonovich	Cullen	Knox	Petino
Ainett	Davis	Lancaster	Ralph
Budham	DeDeh	Lanterman	Robinson
Bane	Dixon	Lewis	Rosenthal
Bauman	Duffy	Lockyer	Siegler
Berman	Egeland	Maddy	Sieroty
Beverly	Fenton	McAlister	Sutti
Boatwright	Foran	McLanahan	Thomas, Vincent
Briggs	Garamendi	McVittie	Thomas, William
Brown	Goggin	Meade	Thurman
Buike	Greene	Millet	Tories
Calvo	Gualco	Mobley	Tucker
Campbell	Hart	Montoya	Vicenera
Chacon	Hayden	Mori	Warren
Chappie	Hughes	Murphy	Wilson
Chel	Inghis	Nestande	Wornum
Chne	Kapiloff	Nimmo	Mt Speaker
Collier	Keene		

Quorum present.

PRAYER

Upon invitation of Speaker pro Tempore Papan, the following prayer was offered by Hon Curtis R Tucker, Member, 50th District:

Father in Heaven, We are here to serve Help us as servants to be open to Your will and to the needs of Your people.

We ask this in Your Name.—AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker McCarthy, Mr. Vicencia then led the Assembly in the pledge of allegiance to the Flag

MOTION TO DISPENSE WITH READING OF THE JOURNAL

Further reading of the Journal of the previous legislative day was dispensed with on motion of Mrs Hughes, seconded by Mr. Kapiloff.

LEAVES OF ABSENCE FOR THE DAY

The following Member was granted leave of absence for the day, because of illness:

Mr. MacDonald, on request of Speaker pro Tempore Papan.

The following Members were granted leaves of absence for the day, on personal business, and desired to waive their per diem:

Mr. Carpenter, on request of Speaker pro Tempore Papan.

Mr. Chimbole, on request of Speaker pro Tempore Papan.

Mr. Priolo, on request of Speaker pro Tempore Papan.

Mr. Vasconcellos, on request of Speaker pro Tempore Papan.

AUTHOR'S AMENDMENTS**Committee on Finance, Insurance, and Commerce**

Assembly Chamber, August 29, 1975

Mr Speaker: The Chairman of your Committee on Finance, Insurance, and Commerce reports

Senate Bill No 4

With author's amendments with the recommendation. Amend, and re-refer to the Committee on Finance, Insurance, and Commerce

McALISTER, Chairman

Senate Bill No. 4—An act to add and repeal Section 11587 to the Insurance Code, relating to medical malpractice insurance, and declaring the urgency thereof, to take effect immediately.

Bill read second time.

Consideration of Author's Amendments

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted:

Amendment 1

In line 1 of the title of the printed bill, as amended in Senate August 21, 1975, strike out "add and repeal Section 11587 to", and insert "amend Section 4040 of, and to add Sections 108 5, 1858.05, and 1858.15 to,".

Amendment 2

On page 2, strike out line 1. and insert

"SECTION 1 Section 108 5 is added to Insurance Code, to read 108 5 "Medical malpractice insurance" means insurance coverage against the legal liability of the insured and against loss, damage, or expense incident to a claim arising out of the death or injury of any person as the result of negligence or malpractice in rendering professional services by any person who holds a certificate or license issued pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, a license issued pursuant to the

Osteopathic Initiative Act, or a license as a health facility pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code

SEC 2 Section 1858 05 is added to the Insurance Code, to read:

1858 05 Whenever a written complaint and request for hearing with the commissioner has been filed pursuant to Section 1858, and the complaint concerns medical malpractice insurance, the commissioner shall within 30 days either by order deny the hearing or proceed as provided in Sections 1858 1 or 1858 2. The complainant may petition the court for an order to compel compliance with this section.

SEC 3 Section 1858 15 is added to the Insurance Code, to read:

1858.15. Once commenced, an examination pursuant to Section 1858 1 shall be promptly conducted and concluded within a reasonable time. If the examination is being conducted as the result of a written complaint and request for hearing filed pursuant to Section 1858, and the complaint concerns medical malpractice insurance, the complainant may petition the court for an order to compel compliance with this section.

SEC 4 Section 4040 of the Insurance Code is amended to read:

4040. A mutual insurer may borrow money to defray the expenses of its organization, provide it with surplus funds, or for any purpose of its business, upon a written agreement that such money is required to be repaid only out of the insurer's surplus in excess of that stipulated in such agreement. The agreement may provide for interest not exceeding either 6 percent per annum, or the maximum interest rate permitted by the Federal Reserve Bank, whichever is the higher rate, on single maturity time deposits in the amount of one hundred thousand dollars (\$100,000) and over, running one year or more, which interest shall or shall not constitute a liability of the insurer as to its funds other than as such excess as stipulated in the agreement. ~~Written agreements evidencing such borrowed money shall not be issued in units of less than ten thousand dollars (\$10,000).~~ No commission or promotion expense shall be paid in connection with any such loan."

Amendment 3

On page 2, strike out lines 2 through 22, inclusive; and on page 3, strike out lines 1 through 33, inclusive.

Amendment 4

On page 3, line 34, strike out "SEC. 3", and insert "SEC. 5".

Amendment 5

On page 3, strike out lines 39 and 40; and strike out page 4, and insert

"There has been grave concern as to the validity of premiums charged for medical malpractice insurance. Due to high premiums, doctors have and will withhold their services, to the detriment of the public at large. In order to facilitate the expeditious review of medical malpractice insurance premiums as soon as possible, thereby providing relief to doctors and the public at large, it is necessary that this act take effect immediately."

Bill ordered reprinted, and to be re-referred to the Committee on Finance, Insurance, and Commerce.

AUTHOR'S AMENDMENTS

Committee on Judiciary

Assembly Chamber, August 29, 1975

Mr. Speaker: The Chairman of your Committee on Judiciary reports:

Senate Bill No. 1

With author's amendments with the recommendation Amend, and re-refer to the Committee on Judiciary.

MILLER, Chairman

Senate Bill No. 1—An act to amend Sections 125 5, 2100, 2101, 2116, 2119, 2361, 2362, 2364, 2372 5, 2436, 2454, 2456, and 2458 of, to add Sections 2100.5, 2100 6, 2100 7, 2100 8, 2101 5, 2101 6, 2101 7, 2122, 2372, and 2372 1 to, to add Article 11 (commencing with Section 800) to Chapter 1 of Division 2 of, to add Article 2 3 (commencing with Section 2123) and Article 2 4 (commencing with Section 2124 6) to Chapter 5 of Division 2 of, to repeal Section 2372 of, to repeal Article 11 (commencing with Section 800) of Chapter 1 of Division 2 of, and to repeal Article 2 3 (commencing with Section 2123) of Chapter 5 of Division 2 of, the Business and Professions Code, to amend Section 43.8 of, and to add Article 5 (commencing with Section 3362) to Chapter 2 of Title 2 of Part 1 of Division 4 of, the Civil Code, to repeal and add Section 340 5 of, and to add Chapter 5 (commencing with Section 364) to Title 2 of Part 2 of the Code of Civil Procedure, to add Section 1159 to the Evidence Code, to add and repeal Section 11587 of, and to add Section 11917 to, and to add Chapter 5 5 (commencing with Section 11920) to Part 3 of Division 2 of, the Insurance Code, relating to malpractice.

Bill read second time.

Consideration of Author's Amendments

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted:

Amendment 1

On page 10, line 27, of the printed bill, as amended in Assembly August 26, 1975, after "2383", strike out the comma and insert a period.

Amendment 2

On page 10, strike out line 28.

Amendment 2.5

On page 10, line 34, after "services", insert a period.

Amendment 3

On page 10, line 34, strike out ", pursuant to the"; and in line 35, strike out "reporting requirements of Section 801 or 802;".

Amendment 4

On page 10, line 37, strike out ", pursuant to subdivision (b) of this section;"; and insert a period.

Amendment 5

On page 10, line 38, strike out "reported pursuant to Section"; and in line 39, strike out "805".

Amendment 6

On page 12, line 25, after "claim", insert "or who is so insured but makes a settlement or pays an arbitration award without reporting the same to his insurer".

Amendment 6.5

On page 13, line 23, strike out "; provided that, where the judge who"; and strike out lines 24 to 27, inclusive, and insert a period.

Amendment 7

On page 38, line 22, after "a", insert "vested".

Amendment 8

On page 38, lines 22 and 23, after "future", strike out ", either contingent or vested".

Amendment 9

On page 39, line 14, after "of", insert "past, present and future".

Amendment 10

On page 39, lines 15 and 16, strike out "earnings after payment of state and federal income taxes", and insert "earning capacity, less state and federal income taxes due from such earning capacity,".

Amendment 10.5

On page 39, line 27, strike out "payment of such periodic"; and strike out lines 28 and 29, and insert "award equals or exceeds two hundred thousand dollars (\$200,000)."

Amendment 11

On page 41, strike out lines 6 to 27, inclusive.

Amendment 12

On page 41, strike out lines 36 to 40, inclusive; and on page 42, strike out lines 1 to 14, inclusive, and insert

"(1) Forty percent of the first fifty thousand dollars (\$50,000) recovered.

(2) Thirty-three and one-third percent of the next fifty thousand dollars (\$50,000) recovered

(3) Twenty-five percent of the next one hundred thousand dollars (\$100,000) recovered

(4) If the recovery exceeds two hundred thousand dollars (\$200,000), the court shall set reasonable attorney's fees for such excess."

Amendment 13

On page 44, between lines 22 and 23, insert

"365 Failure to comply with this chapter shall not invalidate any proceedings of any court of this state, nor shall it affect the jurisdiction of the court to render a judgment therein. However, failure to comply with such provisions by any attorney at law shall be grounds for professional discipline and the State Bar of California shall investigate and take appropriate action in any such cases brought to its attention."

Amendment 14

On page 45, line 21, after the period, insert "The commissioner shall give notice of such hearing at least five days prior to the hearing to the Board of Medical Quality Assurance."

Bill ordered reprinted, and to be re-referred to the Committee on Judiciary.

REPORTS OF STANDING COMMITTEES**Committee on Judiciary**

Assembly Chamber, August 28, 1975

Mr. Speaker. Your Committee on Judiciary reports.

Senate Bill No. 7

With amendments with the recommendation Amend, and re-fer to the Committee on Judiciary.

MILLER, Chairman

**REQUEST FOR UNANIMOUS CONSENT TO TAKE UP
SENATE BILL NO. 7**

Mr. Miller was granted unanimous consent to take up Senate Bill No. 7, without reference to file, for the purpose of reading the bill a second time and adopting the committee amendments at this time

Second Reading of Senate Bill No. 7 by Unanimous Consent

Senate Bill No. 7—An act to amend Sections 125.5, 2100, 2101, 2116, 2119, 2361, 2361.5, 2362, 2364, 2372.5, 2436, 2454, 2456, and 2458 of, to add Sections 2100.5, 2100.6, 2100.7, 2100.8, 2101.5, 2101.6, 2122, 2361.3, 2372, and 2372.1 to, to add Article 11 (commencing with Section 800) to Chapter 1 of Division 2 of, to add Article 2.3 (commencing with Section 2123) and Article 2.4 (commencing with Section 2124.5) to Chapter 5 of Division 2 of, to add Article 8.5 (commencing with Section 6146) to Chapter 4 of Division 3 of, to repeal Section 2372 of, to repeal Article 11 (commencing with Section 800) of Chapter 1 of Division 2 of, and to repeal Article 2.3 (commencing with Section 2123) of Chapter 5 of Division 2 of, the Business and Professions Code; to amend Section 43.8 of, and to add Section 3333.1 to the Civil Code; to amend Sections 340.5 and 1094.5, of and to add Section 667.7 to, the Code of Civil Procedure, to add Division 17 (commencing with Section 2100.5) to the Health and Safety Code; and to add Sections 11587 and 11588 to the Insurance Code, relating to health.

Bill read second time.

Consideration of Committee Amendments

The following amendments, proposed by the Committee on Judiciary, were read, and adopted:

Amendment 1

In line 15 of the title of the printed bill, as amended in Assembly August 26, 1975, strike out "Section 667.7", and insert "Sections 667.7 and 674.7".

Amendment 2

On page 9, line 36, after "claim", insert "or who is so insured but makes a settlement or pays an arbitration award without reporting the same to his insurer".

Amendment 3

On page 29, strike out lines 32 and 33, and insert

"(4) If the recovery exceeds two hundred thousand dollars (\$200,000), the court shall set reasonable attorney's fees for such excess."

Amendment 4

On page 33, line 20, strike out "payment of", strike out lines 21 and 22; and in line 23, strike out "award", and insert "award equals or exceeds two hundred thousand dollars (\$200,000) in future damages".

Amendment 5

On page 33, line 27, after the period, insert "As a condition of authorizing periodic payments of future damages, the court shall require the judgment debtor who is not adequately insured to post security adequate to assure full payment of such damages awarded by the judgment. Upon termination of periodic payments of future damages, the court shall order the return of this security, or so much as remains, to the judgment debtor."

Amendment 6

On page 33, line 28, after "(b)", insert "(1)".

Amendment 7

On page 33, between lines 35 and 36, insert

"(2) In the event that the court finds that the judgment debtor has exhibited a continuing pattern of failing to make the payments, as specified in paragraph (1), the court shall find the judgment debtor in contempt of court and, in addition to the required periodic payments, shall order the judgment debtor to pay the judgment creditor all damages caused by the failure to make such periodic payments, including court costs and attorney's fees."

Amendment 8

On page 35, between lines 8 and 9, insert

"SEC 263 Section 6747 is added to the Code of Civil Procedure, to read:

6747 A certified copy of any judgment or order of the superior court of this state issued pursuant to Section 6677, when recorded with the recorder of any county, shall from such recording become a lien upon all real property of the judgment debtor, not exempt from execution, in such county, owned by him at the time, or which he may afterwards and before the lien expires, acquire, for the respective amounts and installments as they mature (but shall not become a lien

for any sum or sums prior to the date they severally become due and payable) which liens shall have, to the extent herein provided and for the period of 10 years from such recording, the same force, effect and priority as the lien created by recordation of an abstract of a money judgment pursuant to Section 674.

The certificate of the judgment debtor, certified by him under penalty of perjury, that all amounts and installments which have matured under said judgment prior to the date of such certificate have been fully paid and satisfied shall, when acknowledged and recorded, be prima facie evidence of such payment and satisfaction and conclusive in favor of any person dealing in good faith and for a valuable consideration with the judgment debtor or his successors in interest.

Whenever a certified copy of any judgment or order of the superior court issued pursuant to Section 667 7 has been recorded with the recorder of any county, the expiration or satisfaction thereof made in the manner of an acknowledgment of a conveyance of real property may be recorded."

Amendment 8.5

On page 38, lines 28 and 29, strike out "the California Arbitration Commission on Medical Injury Compensation", and insert "arbitration".

Amendment 9

On page 41, between lines 9 and 10, insert "SEC. 27.7. The provisions of this act shall not apply to any cause of action for professional negligence for which a complaint is filed prior to the effective date of this act."

Bill ordered reprinted, and to be re-referred to the Committee on Judiciary.

ADJOURNMENT

At 3:52 p.m., Speaker McCarthy declared the Assembly adjourned until 11 a.m., Tuesday, September 2, 1975.

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNALFORTY-EIGHTH LEGISLATIVE DAY
ONE HUNDRED SEVENTH CALENDAR DAY**IN ASSEMBLY**Assembly Chamber, Sacramento
Tuesday, September 2, 1975

The Assembly met at 4 15 p m

Hon Julian C Dixon, Member of the Assembly, 49th District, pre-
siding

Chief Clerk James D Driscoll at the Desk

Assistant Clerk Ray Monday reading.

ROLL CALL

The roll was called, and the following answered to their names—76.

Alatorre	Collier	Keene	Nimmo
Antonovich	Craven	Keyser	Papan
Auett	Cullen	Knox	Perino
Badham	Davis	Laanster	Ralph
Baue	Deddeh	Lanterman	Robinson
Bannu	Dixon	Lewis	Rosenthal
Berman	Duffy	Lockyer	Siegler
Beverly	Egeland	MacDonald	Sieroty
Bontwright	Fenton	Maddy	Sutt
Buggs	Folan	Mr. Alister	Thomas, William
Brown	Garamendi	McJannet	Thurman
Burke	Goggin	McVittie	Tories
Calvo	Greene	Meade	Tucker
Campbell	Gunco	Miller	Vasconcellos
Chacon	Hart	Mohr	Vicenna
Chappie	Hayden	Montoya	Warren
Chel	Hughes	Mori	Wilson
Chimboe	Ingalls	Murphy	Worrum
Clue	Kaploff	Nestande	Mr. Speaker

Quorum present.

PRAYER

The following prayer was offered by the Chaplain, Father Leo McAllister:

God, Our Father, By virtue of the talents You have given us and by reason of the circumstances of our individual lives, You have called upon each one of us to make our contribution to the world. It may be little or it may be great. It doesn't matter. What does matter is that we do make it and for the right reason.

Help us, Father, to achieve this essence of living — AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Acting Speaker Dixon, Mr Beverly then led the Assembly in the pledge of allegiance to the Flag.

MOTION TO DISPENSE WITH READING OF THE JOURNAL

Further reading of the Journal of the previous legislative day was dispensed with on motion of Mr. Miller, seconded by Mr. Siegler.

LEAVES OF ABSENCE FOR THE DAY

The following Members were granted leaves of absence for the day, on personal business, and desired to waive their per diem:

Mr. Carpenter, on request of Acting Speaker Dixon.

Mr. Priolo, on request of Acting Speaker Dixon

Mr. Vincent Thomas, on request of Acting Speaker Dixon.

MESSAGES FROM THE SENATE

Senate Chamber, September 2, 1975

Mr. Speaker: I am directed to inform your honorable body that the Senate amended, and on this day passed as amended:

Assembly Bill No 1

And respectfully requests your honorable body to concur in said amendments.

DARRYL R. WHITE, Secretary of the Senate

By John W. Royane, Chief Assistant Secretary

Above bill ordered to unfinished business file.

ADJOURNMENT

At 4:16 p.m., Acting Speaker Dixon declared the Assembly adjourned until 10:30 a.m., Wednesday, September 3, 1975

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNALFORTY-NINTH LEGISLATIVE DAY
ONE HUNDRED EIGHTH CALENDAR DAY**IN ASSEMBLY**Assembly Chamber, Sacramento
Wednesday, September 3, 1975

The Assembly met at 4:40 p.m.

Hon Louis J. Papan, Speaker pro Tempore of the Assembly, presiding

Chief Clerk James D Driscoll at the Desk.

Assistant Clerk Ray Monday reading.

ROLL CALL

The roll was called, and the following answered to their names—79:

Alatorre	Collier	Keyser	Perino
Antonovich	Craven	Knox	Priolo
Arnett	Cullen	Lancaster	Ralph
Radham	Davis	Lanternman	Robinson
Itane	Deleideh	Lewis	Rosenthal
Bannai	Dixon	Lockyer	Siegler
Berman	Duffy	MacDonald	Sieroty
Beverly	Egeland	Maddy	Sutt
Boatwright	Fenton	McAlister	Thomas, Vincent
Briggs	Foran	McLennan	Thomas, William
Brown	Garamendi	McVittie	Thurman
Burke	Goggin	Mende	Torres
Calvo	Greene	Millex	Tucker
Campbell	Gunico	Mobley	Vasconcellos
Carpenter	Hart	Montoya	Vicencia
Chacon	Hayden	Mori	Warren
Chappie	Hughes	Murphy	Wilson
Chel	Ingalls	Nestande	Wornum
Chimbole	Kaploff	Nimmo	Mr. Speaker
Clue	Keene	Papan	

Quorum present.

PRAYER

The following prayer was offered by the Chaplain, Father Leo McAllister.

Father, You watch over us and provide us with leadership. We acknowledge our need for help in this age of renewal. Please guide us in our decisions so that no one's need may be overlooked or subordinated. Make our leaders open to new ideas and new strategies but above all keep them open and responsive to the needs of the powerless in our state and country—AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker pro Tempore Papan, Mr. Keysor then led the Assembly in the pledge of allegiance to the Flag.

READING OF THE JOURNAL DISPENSED WITH

By unanimous consent, reading of the Journal of the previous legislative day was dispensed with.

ADJOURNMENT

At 4:41 p.m., Speaker pro Tempore Papan declared the Assembly adjourned until 10:30 a.m., Thursday, September 4, 1975.

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNAL

FIFTIETH LEGISLATIVE DAY
ONE HUNDRED NINTH CALENDAR DAY

IN ASSEMBLY

Assembly Chamber, Sacramento
Thursday, September 4, 1975

The Assembly met at 3:21 p.m.

Hon. Leo T. McCarthy, Speaker of the Assembly, presiding.

Chief Clerk James D. Driscoll at the Desk.

Assistant Clerk Ray Monday reading.

ROLL CALL

The roll was called, and the following answered to their names—78:

Alatorre	Craven	Knox	Perno
Antonovich	Cullen	Lancaster	Priolo
Arnett	Davis	Lanterman	Ralph
Bane	Deddeh	Lewis	Robinson
Bannai	Dixon	Lockyer	Rosenthal
Berman	Duffy	MacDonald	Siegler
Beverly	Egeland	Maddy	Sieroty
Boutwright	Fenton	McAlister	Suitt
Briggs	Foran	McLennan	Thomas, Vincent
Brown	Garamendi	McVittie	Thomas, William
Burke	Goggiu	Meade	Thurman
Calvo	Greene	Miller	Torres
Campbell	Gualco	Mobley	Tucker
Carpenter	Hart	Montoya	Vasconcellos
Chacon	Hayden	Mori	Vicencia
Chappie	Hughes	Murphy	Warren
Chel	Ingalls	Nestande	Wilson
Chimboles	Kapiloff	Nimmo	Worrum
Cline	Keene	Papan	Mr. Speaker
Collier	Keysor		

Quorum present.

PRAYER

The following prayer was offered by the Chaplain, Father Leo McAllister:

Father, We stand now in time, in this world which is yet unfinished, far from realizing the dream You have for man. We hope and trust in You, that Your kingdom, Your city of promise is even now becoming real on this earth. Let us not be discouraged by man's failures for there are also many successes. Give each of us the courage and the enthusiasm to use each talent and explore every path in the building of this kingdom.—AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker McCarthy, Mr. Maddy then led the Assembly in the pledge of allegiance to the Flag.

MOTION TO DISPENSE WITH READING OF THE JOURNAL

Further reading of the Journal of the previous legislative day was dispensed with on motion of Mr. MacDonald, seconded by Mr. Foran.

LEAVES OF ABSENCE FOR THE DAY

The following Member was granted leave of absence for the day, on personal business, and desired to waive his per diem:

Mr. Badham, on request of Speaker McCarthy.

NOTE: For letter explaining the absence of Mr. Badham on this day on personal business, see Assembly Daily Journal for the regular session for this day.

REPORTS OF STANDING COMMITTEES**Committee on Judiciary**

Assembly Chamber, September 3, 1975

Mr. Speaker: Your Committee on Judiciary reports:

Senate Bill No. 1

Senate Bill No. 7

With amendments with the recommendation: Amend, and re-refer to the Committee on Judiciary.

MILLER, Chairman

Above bill ordered to second reading.

**REQUEST FOR UNANIMOUS CONSENT TO TAKE UP
SENATE BILLS NOS. 1 AND 7**

Mr. Miller was granted unanimous consent to take up Senate Bills Nos. 1 and 7, without reference to file, for the purpose of reading the bills a second time and adopting the committee amendments at this time.

Second Reading of Bills by Unanimous Consent

Senate Bill No. 1—An act to amend Sections 125 5, 2100, 2101, 2116, 2119, 2361, 2362, 2364, 2372 5, 2436, 2454, 2456, and 2458 of, to add Sections 2100 5, 2100 6, 2100.7, 2100 8, 2101 5, 2101 6, 2101 7, 2122, 2372, and 2372 1 to, to add Article 11 (commencing with Section 800) to Chapter 1 of Division 2 of, to add Article 2 3 (commencing with Section 2123) and Article 2 4 (commencing with Section 2124 6) to Chapter 5 of Division 2 of, to repeal Section 2372 of, to repeal Article 11 (commencing with Section 800) of Chapter 1 of Division 2 of, and to repeal Article 2 3 (commencing with Section 2123) of Chapter 5 of Division 2 of, the Business and Professions Code, to amend Section 43.8 of, and to add Article 5 (commencing with Section 3362) to Chapter 2 of Title 2 of Part 1 of Division 4 of, the Civil Code, to repeal and add Section 340 5 of, and to add Chapter 5 (commencing with Section 364) to Title 2 of Part 2 of the Code of Civil Procedure, to add Section 1159 to the Evidence Code, to add and repeal Section 11587 of, and to add Section 11917 to, and to add Chapter 5 5 (commencing with Section 11920) to Part 3 of Division 2 of, the Insurance Code, relating to malpractice.

Bill read second time.

Consideration of Committee Amendments

The following amendments, proposed by the Committee on Judiciary, were read, and adopted:

Amendment 1

In line 17 of the title of the printed bill, as amended in Assembly August 29, 1975, strike out "to add and repeal Section 11587 of, and".

Amendment 2

In line 18 of the title, strike out "and".

Amendment 3

In line 19 of the title, after the comma, insert "and to add Division 5 (commencing with Section 14000) to,".

Amendment 4

On page 41, strike out lines 11 to 40, inclusive, strike out page 42; and on page 43, strike out lines 1 to 7, inclusive.

Amendment 5

On page 43, line 8, strike out "SEC' 9", and insert "SEC. 8".

Amendment 6

On page 43, line 27, strike out "SEC' 10", and insert "SEC. 9".

Amendment 7

On page 56, between lines 16 and 17, insert "SEC 10. Division 5 (commencing with Section 14000) is added to the Insurance Code, to read:

**DIVISION 5. PROFESSIONAL LIABILITY INSURANCE
FOR HEALTH CARE PROVIDERS**

14000 (a) No professional liability insurance for persons lawfully engaged in the practice of medicine or osteopathy, health plans, and partnerships or corporations lawfully engaged in the operation of hospitals, sanitariums, clinics or other health care facilities, shall be issued or renewed at rates which exceed reasonable rate levels for the insurance provided as established by the Insurance Commissioner. Such rate levels shall be established annually by the commissioner on or before December 31 for application to the succeeding calendar year.

(b) The Insurance Commissioner shall conduct public hearings prior to the establishment of such rates. The hearings shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) Violations by any liability insurance carrier of the provisions of this section shall be cause for immediate suspension or termination of the carrier's authority to offer or transact insurance in this state. In addition, failure by any carrier to comply with the provisions of this section is a public offense punishable by a fine of not less than five thousand dollars (\$5,000) or more than fifty thousand dollars (\$50,000). Knowing and intentional failure to comply with the provisions of this section, or conspiracy or collusion not to comply with the provisions of this section, or to hinder or impede any other person in such compliance is a public offense punishable by a fine of not less than fifty thousand dollars (\$50,000) nor more than five hundred thousand dollars (\$500,000).

14001. (a) The Insurance Commissioner may, after a public hearing conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, find that, on a county-by-county basis, essential health care services are unavailable or may imminently become unavailable to a significant number of persons residing in such county due to the unavailability of professional liability insurance.

(b) Where the commissioner reaches a finding pursuant to subdivision (a) he may order insurers licensed or authorized to transact, and engaged in transacting within this state on a direct basis, liability insurance, to provide professional liability insurance on an emergency basis for a period not to exceed one year at rates established pursuant to Section 14000. The commissioner shall assign underwriting responsibilities to individual carriers on a formula approximating each carrier's proportion of total liability insurance underwriting in the state and which he deems fair and equitable.

14002. In no even shall the total brokerage fee or fees, including reinsurance brokerage fees and rebates, for obtaining professional liability insurance for persons lawfully engaged in the practice of medicine or osteopathy, health plans, and partnerships or corporations lawfully engaged in the operation of hospitals, sanitariums, clinics or other health care facilities, exceed 5 percent of the gross premium in aggregate on any such insurance policy."

Bill ordered reprinted, and to be re-referred to the Committee on Judiciary.

Senate Bill No. 7—An act to amend Sections 125 5, 2100, 2101, 2116, 2119, 2361, 2361 5, 2362, 2364, 2372 5, 2436, 2454, 2456, and 2458 of, to add Sections 2100 5, 2100 6, 2100 7, 2100 8, 2101 5, 2101 6, 2122, 2361 3, 2372, and 2372 1 to, to add Article 11 (commencing with Section 800) to Chapter 1 of Division 2 of, to add Article 23 (commencing with Section 2123) and Article 24 (commencing with Section 2124 5) to Chapter 5 of Division 2 of, to add Article 8 5 (commencing with Section 6146) to Chapter 4 of Division 3 of, to repeal Section 2372 of, to repeal Article 11 (commencing with Section 800) of Chapter 1 of Division 2 of, and to repeal Article 23 (commencing with Section 2123) of Chapter 5 of Division 2 of, the Business and Professions Code; to amend Section 43 8 of, and to add Section 3333.1 to the Civil Code; to amend Sections 340 5 and 1094 5, of and to add Sections 667 7 and 674.7 to, the Code of Civil Procedure, to add Division 17 (commencing with Section 21005) to the Health and Safety Code, and to add Sections 11587 and 11588 to the Insurance Code, relating to health

Bill read second time.

Consideration of Committee Amendments

The following amendments, proposed by the Committee on Judiciary, were read, and adopted:

Amendment 1

In line 17 of the title of the printed bill, as amended in Assembly August 29, 1975, strike out "Sections 11587 and", and insert "Section".

Amendment 2

In line 18 of the title, after the first "to", insert ", and to add Division 5 (commencing with Section 14000) to,".

Amendment 3

On page 41, strike out lines 2 to 40, inclusive; and on page 42, strike lines 1 to 14, inclusive.

Amendment 4

On page 42, line 15, strike out "27 5", and insert "27".

Amendment 5

On page 42, between lines 30 and 31, insert "SEC 27.5 Division 5 (commencing with Section 14000) is added to the Insurance Code, to read:

**DIVISION 5. PROFESSIONAL LIABILITY INSURANCE
FOR HEALTH CARE PROVIDERS**

14000 (a) No professional liability insurance for persons lawfully engaged in the practice of medicine or osteopathy, health plans, and partnerships or corporations lawfully engaged in the operation of hospitals, sanitariums, clinics or other health care facilities, shall be issued or renewed at rates which exceed reasonable rate levels for the insurance provided as established by the Insurance Commissioner. Such rate levels shall be established annually by the commissioner on or before December 31 for application to the succeeding calendar year.

(b) The Insurance Commissioner shall conduct public hearings prior to the establishment of such rates. The hearings shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code

(c) Violations by any liability insurance carrier of the provisions of this section shall be cause for immediate suspension or termination of the carrier's authority to offer or transact insurance in this state. In addition, failure by any carrier to comply with the provisions of this section is a public offense punishable by a fine of not less than five thousand dollars (\$5,000) or more than fifty thousand dollars (\$50,000). Knowing and intentional failure to comply with the provisions of this section, or conspiracy or collusion not to comply with the provisions of this section, or to hinder or impede any other person in such compliance is a public offense punishable by a fine of not less than fifty thousand dollars (\$50,000) nor more than five hundred thousand dollars (\$500,000).

14001. (a) The Insurance Commissioner may, after a public hearing conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, find that, on a county-by-county basis, essential health care services are unavailable or may imminently become unavailable to a significant number of persons residing in such county due to the unavailability of professional liability insurance.

(b) Where the commissioner reaches a finding pursuant to subdivision (a), he may order insurers licensed or authorized to transact, and engaged in transacting within this state on a direct basis, liability insurance, to provide professional liability insurance on an emergency basis for a period not to exceed one year at rates established pursuant to Section 14000. The commissioner shall assign underwriting responsibilities to individual carriers on a formula approximating each carrier's proportion of total liability insurance underwriting in the state and which he deems fair and equitable.

14002. In no event shall the total brokerage fee or fees, including reinsurance brokerage fees and rebates, for obtaining professional liability insurance for persons lawfully engaged in the practice of medicine or osteopathy, health plans, and partnerships or corporations lawfully engaged in the operation of hospitals, sanitariums, clinics or other health care facilities, exceed 5 percent of the gross premium in aggregate on any such insurance policy."

Bill ordered reprinted, and to be re-referred to the Committee on Judiciary.

Speaker pro Tempore Presiding

At 4.24 p m , Hon Louis J. Papan, 19th District, presiding.

JOINT RULE 62(a) WAIVED

Mr. Miller was granted unanimous consent that Joint Rule 62(a) be waived for the purpose of setting Senate Bills Nos. 1 and 7 for hearing in the Committee on Judiciary at 4.30 p m , on Monday, September 8, 1975.

ADJOURNMENT

At 4.25 p m , Speaker pro Tempore Papan declared the Assembly adjourned until 11 a m., Friday, September 5, 1975.

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNAL

FIFTY-FIRST LEGISLATIVE DAY
ONE HUNDRED TENTH CALENDAR DAY

IN ASSEMBLY

Assembly Chamber, Sacramento
Friday, September 5, 1975

The Assembly met at 4:41 p m.

Hon Leo T. McCarthy, Speaker of the Assembly, presiding.

Chief Clerk James D Driscoll at the Desk.

Assistant Clerk Ray Monday reading.

ROLL CALL

The roll was called, and the following answered to their names—79:

Alatorre	Collier	Keysor	Perino
Antonovich	Craven	Knox	Priolo
Arnett	Cullen	Lancaster	Ralph
Badham	Davis	Lanterman	Robinson
Bane	Deddeh	Lewis	Rosenthal
Banna	Dixon	Lockyer	Siegler
Berman	Duffy	MacDonald	Sieroty
Beverly	Egeland	Maddy	Sutt
Boatwright	Fenton	McAlister	Thomas, Vincent
Briggs	Foran	McLennan	Thomas, William
Brown	Garamendi	McVittie	Thurman
Burke	Goggin	Meade	Tories
Calvo	Greene	Miller	Tucker
Campbell	Gualco	Mobley	Vasconcellos
Carpenter	Hart	Montoya	Vicencia
Chancon	Hajden	Mori	Wallen
Chappie	Hughes	Murphy	Wilson
Chel	Ingalls	Nestande	Wornum
Chimbole	Kapiloff	Nimmo	Mr. Speaker
Cline	Keene	Papan	

Quorum present.

PRAYER

The following prayer was offered by the Chaplain, Father Leo McAllister:

God Our Father, On this historic day when we are honored by a visit by our President to our Capitol, we pray for him and all people in roles of leadership. Give them wisdom and dedication, concern and control. Give them a sense of truth and justice.

Help all of us who elect our leaders to constantly respect the offices they hold Help us also to demand from them performance commensurate with those offices We thank You for the blessings You have showered upon our land—AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker McCarthy, Mr. Ralph then led the Assembly in the pledge of allegiance to the Flag.

READING OF THE JOURNAL DISPENSED WITH

By unanimous consent, reading of the Journal of the previous legislative day was dispensed with.

REPORTS OF STANDING COMMITTEES**Committee on Finance, Insurance, and Commerce**

Assembly Chamber, September 4, 1975

Mr. Speaker: Your Committee on Finance, Insurance, and Commerce reports:

Senate Bill No. 4

With amendments with the recommendation. Amend, do pass, as amended, and be re-referred to the Committee on Ways and Means.

McALLISTER, Chairman

**REQUEST FOR UNANIMOUS CONSENT TO TAKE UP
SENATE BILL NO. 4**

Mr. McAllister was granted unanimous consent to take up Senate Bill No. 4, without reference to file, for the purpose of reading the bill a second time and adopting the committee amendments at this time.

Second Reading of Senate Bill No. 4 by Unanimous Consent

Senate Bill No. 4—An act to amend Section 4040 of, and to add Sections 108 5, 1858 05, and 1858 15 to, the Insurance Code, relating to medical malpractice insurance, and declaring the urgency thereof, to take effect immediately.

Bill read second time.

Consideration of Committee Amendments

The following amendments, proposed by the Committee on Finance, Insurance, and Commerce, were read, and adopted:

Amendment 1

On page 4, line 20, of the printed bill, as amended in Assembly August 29, 1975, after the period, insert "Except with respect to a mutual insurer authorized to transact only medical malpractice insurance as defined by Section 108.5, written agreements evidencing such borrowed money shall not be issued in units of less than ten thousand dollars (\$10,000)."

Bill ordered reprinted, and to be re-referred to the Committee on Ways and Means.

ADJOURNMENT

At 4 42 p m, Speaker McCarthy declared the Assembly adjourned until 9:30 a m, Monday, September 8, 1975.

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNALFIFTY-SECOND LEGISLATIVE DAY
ONE HUNDRED THIRTEENTH CALENDAR DAY**IN ASSEMBLY**Assembly Chamber, Sacramento
Monday, September 8, 1975

The Assembly met at 4 19 p m

Hon Leo T McCarthy, Speaker of the Assembly, presiding.

Chief Clerk James D Driscoll at the Desk.

Assistant Clerk Ray Monday reading.

ROLL CALL

The roll was called, and the following answered to their names—79:

Alatorre	Collier	Keyser	Perino
Antonovich	Craven	Knox	Ptulo
Arnett	Cullen	Lancaster	Ralph
Badham	Davis	Lanterman	Robinson
Bane	Deddeh	Lewis	Rosenthal
Bannai	Dixon	Lockyer	Siegler
Berman	Duffy	MacDonald	Sietoty
Beverly	Egeland	Maddy	Smith
Boatwright	Fenton	McAlister	Thomas, Vincent
Briggs	Foran	McLeunan	Thomas, William
Brown	Garsamendi	McVittie	Thurman
Burke	Goggin	Meade	Tores
Calvo	Greene	Miller	Tucker
Campbell	Gualco	Mobley	Vasconcellos
Carpenter	Hart	Montoya	Vicencia
Chacon	Hayden	Mori	Warren
Chappie	Hughes	Murphy	Wilson
Chel	Ingalls	Nestande	Wornum
Chimbole	Kapiloff	Nimmo	Mr. Speaker
Cline	Keene	Papan	

Quorum present.

PRAYER

The following prayer was offered by the Chaplain, Father Leo McAllister:

Father, Save us from despair in our daily encounter with the burden of existence. Save us from exhausting ourselves in resenting rather than patiently accepting its daily handouts.

Make us realize that the mission of service to the cause of man, a mission given to the world to reduce its suffering and give it meaning, a mission to support men in distress, is one which gives more than an average amount of suffering. Give us the strength to accept this — AMEN

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker McCarthy, Mr Nimmio then led the Assembly in the pledge of allegiance to the Flag.

READING OF THE JOURNAL DISPENSED WITH

By unanimous consent, reading of the Journal of the previous legislative day was dispensed with.

CONSIDERATION OF DAILY FILE
UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 1 (Keene)—An act to amend Sections 125.5, 2100, 2101, 2116, 2119, 2361, 2361.5, 2362, 2364, 2372.5, 2436, 2454, 2456, and 2458 of, to add Sections 2100.2, 2100.5, 2100.6, 2100.7, 2100.8, 2101.5, 2101.6, 2122, 2372, and 2372.1 to, to add Article 11 (commencing with Section 800) to Chapter 1 of Division 2 of, to add Article 2.3 (commencing with Section 2123) and Article 2.4 (commencing with Section 2124.5) to Chapter 5 of Division 2 of, to add Article 8.5 (commencing with Section 6146) to Chapter 4 of Division 3 of, to repeal Section 2372 of, to repeal Article 11 (commencing with Section 800) of Chapter 1 of Division 2 of, and to repeal Article 2.3 (commencing with Section 2123) of Chapter 5 of Division 2 of, the Business and Professions Code, to amend Section 43.8 of, and to add Sections 3333.1, and 3333.2 to the Civil Code, to amend Sections 340.5 and 1094.5 of, to add Sections 667.7 and 674.7 to, and to add Chapter 5 (commencing with Section 364) to Title 2 of Part 2 of, and to add Title 9.1 (commencing with Section 1295) to Part 3 of, the Code of Civil Procedure, and to add Sections 11587 and 11588 to, the Insurance Code, relating to health, and making an appropriation therefor.

The question being: Shall the Assembly concur in the following Senate amendments to Assembly Bill No. 1?

Senate Amendments of June 25, 1975

Set No. 1

Amendment 1

In line 3 of the heading of the printed bill, as amended in Assembly June 17, 1975, strike out "Goggin,".

Amendment 2

In line 5 of the title, after the second "of", insert ", to add Section 2015 to".

Amendment 3

In line 17 of the title, after the semicolon, insert "to add Section 1259 to the Health and Safety Code;"

Amendment 4

In line 17 of the title, after "11588 to", insert ", and to add Chapter 5 (commencing with Section 11900) to Part 3 of Division 2 of,"

Amendment 5

On page 12, between lines 35 and 36, insert
"SEC 27 Section 2015 is added to the Business and Professions Code, to read:

2015 Except as provided in Sections 11922 3 and 11922 5 of the Insurance Code, after a finding by the Director of Health pursuant to Section 11910 of the Insurance Code authorizing the issuance of medical malpractice insurance, as defined in subdivision (a) of Section 11900 of the Insurance Code, by the California Medical Malpractice Underwriting Association to physicians, no person possessing a physicians and surgeon's certificate under this chapter and practicing in a county designated by the Director of Health shall purchase a policy of medical malpractice insurance, as defined in subdivision (a) of Section 11900 of the Insurance Code, unless it is issued or is authorized to be issued by the California Medical Malpractice Underwriting Association pursuant to Chapter 5 (commencing with Section 11900) of Part 3 of Division 2 of the Insurance Code"

Amendments 6-10

On page 30, line 8, after "board", insert ", or the California Medical Malpractice Underwriting Association established pursuant to Chapter 5 (commencing with Section 11900) of Part 3 of Division 2 of the Insurance Code,"

Amendment 11

On page 30, line 12, after the period, insert "The immunities afforded by this section and by Section 43 7 shall not affect the availability of any absolute privilege which may be afforded by Section 47."

Amendment 12

On page 31, line 14, strike out "This time", strike out lines 15 to 26, inclusive, and insert "In the event that such person has failed to disclose any act, error or omission upon which such action is based and which is known or through the use of reasonable diligence should have been known to him, the time for the commencement of action shall be five years after the date of the injury. These time limitations shall be tolled for any period during which the plaintiff has not discovered, or through the use of reasonable diligence would not have discovered the presence of a foreign body in his person."

Amendment 12.3

On page 32, line 29, strike out "may", and insert "shall, at the request of either party,".

Amendment 12.6

On page 32, line 35, after "award", insert " , or if the award equals or exceeds one hundred thousand dollars (\$100,000)."

Amendment 13

On page 33, line 2, strike out "to post security adequate to assure full"; strike out line 3, and insert "who is not adequately insured to post security adequate to assure full payment of such damages awarded by the judgment."

Amendment 14

On page 33, line 4, after "(b)", insert "(1)".

Amendment 15

On page 33, line 10, strike out "termination", and insert "modification".

Amendment 16

On page 33, between lines 11 and 12, insert

"(2) In the event that payment is not received as specified in subdivision (1) of this section, the judgment creditor may execute a declaration under penalty of perjury that payment has not been received. Upon receipt, the judgment debtor shall issue subsequent payment within three days to the judgment creditor

(3) When payment of compensation has been unreasonably delayed or refused either prior to or subsequent to the issuance of an award, the full amount of the order, decision or award shall be increased by 10 percent. The question of delay and reasonableness of the cause, therefore, shall be determined by a superior court of competent jurisdiction in accordance with the facts. Such delay or refusal shall constitute good cause to modify the award for the purpose of making the increase provided for herein."

Amendments 17-18

On page 37, between lines 19 and 20, insert

"SEC 26.6. Section 1259 is added to the Health and Safety Code, to read

1259 Except as provided in Sections 11922 3 and 11922 5 of the Insurance Code, after a finding by the Director of Health pursuant to Section 11922 2 of the Insurance Code authorizing the issuance of medical malpractice insurance, as defined in subdivision (a) of Section 11900 of the Insurance Code, by the California Medical Malpractice Underwriting Association to health facilities, no health facility located in a county designated by the Director of Health shall purchase a policy of such medical malpractice insurance unless the policy is issued or is authorized to be issued by such association pursuant to Chapter 5 (commencing with Section 11900) of Part 3 of Division 2 of the Insurance Code

SEC 26 7 Chapter 5 (commencing with Section 11900) is added to Part 3 of Division 2 of the Insurance Code, to read:

CHAPTER 5. MEDICAL MALPRACTICE INSURANCE

Article 1. Definitions

11900 As used in this chapter:

(a) "Medical malpractice insurance" means insurance coverage against the legal liability of the insured, and against loss, damage, or expense incident to a claim arising out of the death or injury of any person as the result of negligence or malpractice in rendering professional services by a person possessing a physician's and surgeon's certificate, or, after a finding by the director pursuant to Section 11922.2, a health care provider.

(b) "Association" means the joint underwriting association (known as the California Medical Malpractice Underwriting Association) established pursuant to the provisions of this chapter.

(c) "Health care provider" means any person licensed pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, except Chapter 11 (commencing with Section 4800) thereof, or licensed pursuant to the Osteopathic Initiative Act, any health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, and any blood bank licensed pursuant to Chapter 4 (commencing with Section 1600) of Division 2 of the Health and Safety Code "Health care provider" includes the legal representative of a health care provider

(d) "Health facility" means any person, firm, partnership, association, corporation, or political subdivision of the state, or other governmental agency in this state licensed under Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code

(e) "Joint underwriting association" means the association composed of all insurers licensed to transact and engaged in transacting within this state on a direct basis, liability insurance, including insurers covering such perils in multiple-peril package policies

(f) "Net direct premiums" means gross direct premiums written on liability insurance in this state, including the liability component of multiple-peril package policies as determined by the commissioner, less return premiums, dividends paid or credited to policyholders, and the surplus portions of the premium deposits.

(g) "Physician" means any person possessing a physician's and surgeon's certificate issued pursuant to the State Medical Practice Act (Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code)

(h) "Director" means the Director of Health.

Article 2 Joint Underwriting Association

11910 (a) Within 30 days after the effective date of this act, with the approval of the commissioner, all insurers licensed or authorized to transact, and engaged in transacting within this state on a direct basis, liability insurance, including insurers covering such perils in multiple-peril package policies shall establish the California Medical Malpractice Underwriting Association to effectuate the purposes of this chapter Every such insurer shall be a member as a condition of its authority to continue to transact liability insurance in this state.

(b) The director may, after a public hearing, find that, on a county-by-county basis, essential health care services are unavailable or may imminently become unavailable to a significant number of persons residing in such county.

(c) Any time after a finding by the director pursuant to subdivision (b), if the director determines, upon application of any interested party and after a public hearing, that the health care crisis has abated, that essential health care services are available and will probably remain available in the future, and that medical malpractice insurance will become available through private insurers in any such county with respect to which he has previously made such a finding, he may order the association to cease its underwriting operations in such county

11911 The purpose of the association shall be to provide medical malpractice insurance in counties designated by the director to physicians and health care providers under this chapter on a self-supporting basis

11912 The association shall be governed by a board of 11 regents composed of six insurers or their authorized representatives, three physicians, and two public representatives. The six insurers shall be elected by cumulative voting by the members of the association, whose votes in such election shall be weighted in accordance with each member's net direct premiums written during the preceding calendar year. One of the physicians and both public representatives shall be appointed by the Governor. The Speaker of the Assembly and the President pro Tempore of the Senate shall each appoint one physician. Each regent shall be elected or appointed for an annual term expiring June 30. Vacancies may be filled by the director but a successor regent shall be appointed only for the remainder of the unexpired term and from the same representative class as the regent replaced.

11913 Within 30 days after the effective date of this act, and during each month of June thereafter, all insurers subject to this chapter, or their authorized representatives, shall meet to elect the six regents who will represent the insurers on the board of regents. The meetings shall be held at a time and place designated by the commissioner and the commissioner shall preside over such meetings.

11914. Within 30 days after the effective date of this act, and during each month of June thereafter the Governor, the Speaker of the Assembly, and the President pro Tempore of the Senate shall announce their appointees to the board of regents.

11915 Nothing in this chapter shall be construed to make the association an agency or office of the state.

Article 3 Operation of the Association

11920 The association shall pursuant to the provisions of this chapter and the plan of operation promulgated under this article with respect to medical malpractice insurance, have the power on behalf of its members to do all of the following:

(a) To issue, or to cause to be issued, directly or through service companies appointed by it, assessable policies of medical malpractice insurance to physicians, including incidental coverages and subject to

limits as specified in the plan of operation, but not to exceed one million dollars (\$1,000,000) for each claimant under one policy and three million dollars (\$3,000,000) for all claimants under one policy in any one year

(b) To underwrite such insurance and to adjust and pay losses with respect thereto, or to appoint service companies to perform such functions

(c) To assume reinsurance from its members.

(d) To cede reinsurance

11921 (a) The commissioner shall, after consultation with members of the association, representatives of the public, the medical and legal professions, and other affected individuals and organizations, promulgate a plan of operation consistent with the provisions of this chapter, to become effective and operative not later than 60 days after the effective date of this act

(b) The plan of operation shall provide for the economic, fair, and nondiscriminatory administration and for the prompt and efficient provision of medical malpractice insurance to physicians and health care providers in this state, and shall contain other provisions, including but not limited to preliminary assessment of all members for initial expenses necessary to commence operations, establishment of necessary facilities, management of the association, assessment of members to maintain solvency, commission arrangements, reasonable and objective underwriting standards, acceptance and cession of reinsurance, appointment of servicing carriers, and procedures for determining amounts of insurance to be provided by the association

(c) The plan of operation shall provide that any excess funds not needed by the association for working capital, payment of claims, and surplus, shall be added to the reserves of the association or returned to the policyholders as a dividend

(d) Amendments to the plan of operation may be made by the regents of the association, subject to the approval of the commissioner, or shall be made at the direction of the commissioner.

(e) On a continuing basis, the commissioner and the association shall consult with the screening committees of various county medical societies for assistance in determining whether applicants, individually or collectively, meet the underwriting standards of the association, as prescribed in the plan of operation

(f) Prior to the promulgation of the plan of operation, the director may require the association in any designated county to issue, or cause to be issued through service companies, to any applicant, a policy of medical malpractice insurance with coverage retroactive to the expiration date of the applicant's medical malpractice insurance policy; provided, however, that said applicant was insured with a policy of medical malpractice insurance at any time within two months prior to the effective date of this act but whose insurer has refused or declined to continue coverage Upon payment of the premium established by the association, the association shall issue or cause to be issued an interim policy of medical malpractice insurance to expire 90 days from the date of issue. Upon termination of the interim

policy, the association may renew the policy under the provisions of subdivision (b) of Section 11922.

11922 (a) Any physician practicing in a county designated by the director pursuant to subdivision (b) of Section 11910 shall, on or after the effective date of the plan of operation, or any health care provider practicing or located in a county designated by the director shall, after a finding by the director pursuant to Section 11922 2, be entitled to apply to the association for medical malpractice insurance coverage. Such application may be made on behalf of an applicant by a broker or agent authorized by the applicant.

(b) If the association determines that the applicant meets the underwriting standards of the association, as prescribed in the plan of operation, then the association, upon receipt of the premium, or such portion thereof as is prescribed in the plan of operation, shall cause to be issued to the physician or health care provider a policy of medical malpractice insurance for a term of one year.

11922 1 Except as provided in Sections 11922 3 and 11922 5, on and after the effective date of the plan of operation, or, in the case of medical malpractice insurance for health facilities, after the amendment to the plan of operation pursuant to Section 11922 2, no policy of medical malpractice insurance insuring a physician or health facility shall be offered, sold, issued, or delivered in any county in this state designated by the director unless by or under the authority of the association pursuant to this chapter

11922 2 (a) The director may, after a public hearing, find that, on a county-by-county basis, essential health care services from health care providers are unavailable or may imminently become unavailable to a significant number of persons residing in such county.

(b) After such a finding, the commissioner shall amend the plan of operation to require the association to issue or cause to be issued, directly or through service companies, assessable policies of medical malpractice insurance in designated counties to each of such types of health care providers found to be in need of such insurance, including incidental coverages and subject to limits as specified in the plan of operation, but not to exceed one million dollars (\$1,000,000) for each claimant under one policy and three million dollars (\$3,000,000) for all claimants under one policy in any one year

(c) After such a finding, the plan of operation shall be further amended, as necessary, by the commissioner or the association to enable the issuance of medical malpractice insurance to health care providers in a manner not inconsistent with the provisions of this chapter.

(d) At any time after a finding by the director pursuant to subdivision (a), if the director determines, upon application of any interested party and after a public hearing, that the health care crisis has abated, that essential health care services are available and will probably remain available in the future, and that medical malpractice insurance will become available through private insurers in any such county with respect to which he has previously made such a finding, he may order the association to cease its underwriting operations in such county with regard to each of the specific types of health care providers covered under the finding pursuant to subdivision (a) of this section.

11922 3 Nothing contained in this chapter shall prohibit the offer, sale, issuance, delivery, or renewal of any policy of medical malpractice insurance.

(a) Which provides coverage only in excess of the maximum coverage offered by the association pursuant to the plan of operation

(b) To an applicant who has been denied medical malpractice insurance by the association for failure to satisfy the underwriting standards of the association as prescribed in the plan of operation

(c) To a health facility subsequent to a finding pursuant to subdivision (b) of Section 11910 but prior to a finding with respect to health facilities, pursuant to Section 11922 2, even if such policy of medical malpractice insurance includes coverage for liabilities arising within the scope of employment for physicians employed by the health facility

11922 4 Except as provided in Section 11922 1, nothing contained in this chapter shall affect the validity of any policy of medical malpractice insurance lawfully issued or delivered prior to the effective date of the plan of operation, or in the case of such insurance to health facilities, prior to the amendment to the plan of operation pursuant to Section 11922 2

11922 5 (a) Nothing contained in this chapter shall prohibit the renewal of any policy of medical malpractice insurance lawfully issued or delivered prior to the effective date of the plan of operation, or, in the case of such insurance to health facilities, prior to the amendment to the plan of operation pursuant to Section 11922 2, provided, however, that immediately after said renewal, the insurer will insure and continue to insure an approximately representative sample of rating classifications so that no substantial adverse selection against the association will result

(b) In order to insure compliance with subdivision (a), the commissioner shall be entitled to inspect at any time a list of each insurer's insureds, grouped according to their rating classifications

11923 (a) The rates, rating plans, rating rules, rating classifications, territories and policy forms applicable to the insurance written by the association under this chapter and statistics relating thereto shall be subject to the provisions of Chapter 9 (commencing with Section 1850) of Part 2 of Division 1, giving due consideration to the past and prospective loss and expense experience for medical malpractice insurance of all of the member companies of the association, trends in the frequency and severity of losses, the investment income of the association, and such other information as may be relevant

(b) Within such time as the commissioner shall direct, the association shall submit, for the approval of the commissioner, an initial filing, in proper form, of policy forms, classifications, rating plans and rating rules applicable to medical malpractice insurance to be written by the association

(c) Whenever any members have been required to contribute to the association pursuant to subdivision (e) the amount or amounts so contributed shall be recouped and reimbursed pro rata to the contributing members, pursuant to the plan of operation and the rating plan then in effect by one or both of the following procedures:

(1) An equitable assessment upon policies which have been written by the association. Every subscriber from the association shall be liable to pay, and shall pay, his proportional part of any such assessment. Each such subscriber's share for which an assessment is made shall be determined by applying to the premium earned on the subscriber's policy or policies during the period to be covered by the assessment, the ratio of the total assessment to the total premiums earned during such period, upon all policies subject to and available for such assessment.

(2) A rate increase applicable prospectively.

(d) Premium rates shall be on an actuarially sound basis which are calculated to make the association self-supporting, and designed reasonably to minimize the need for contributions pursuant to subdivision (e).

(e) In the event at any time that sufficient funds are not available for the sound financial operation of the association, pending recoupment as provided in subdivision (c), all members shall, on a temporary basis, contribute to the financial requirements of the association in the manner provided for in Section 11924. Any such contribution shall be reimbursed to the members following recoupment as provided in subdivision (c). Interest at a rate equal to 2½ percent per annum above the current rediscount rate of the Federal Reserve Bank of San Francisco shall be added to the contribution of any member which fails to submit the contribution requested by the association within 30 days after such request. In no event, however, shall the interest rate exceed the legal maximum.

(f) The association shall offer policies on an occurrence basis only at rates established on an actuarially sound basis which are calculated to be self-supporting, and designed to reasonably minimize the need for contributions pursuant to subdivision (e) of this section.

11924 All insurers who are members of the association shall contribute to the financial requirements of the association in the proportion that the net direct premiums of each such member (excluding that portion of premiums attributable to the operation of the association) written during the preceding calendar year bears to the aggregate net direct premiums written in this state by all members of the association. Each insurer's participation in the association shall be determined annually on the basis of such net direct premiums written during the preceding calendar year as reported in the annual statements and other reports filed by the insurer with the commissioner. Except as provided in this chapter, no member shall be obligated in any one year to reimburse the association on account of its proportionate share in the deficit from operations of the association in that year in excess of 1 percent of its surplus to policyholders attributable to liability insurance written in this state and the aggregate amount not so reimbursed shall be allocated among the remaining members in accordance with the method of determining participation prescribed in this subdivision, after excluding from the computation the total net direct premiums of all

members not sharing in such excess deficit. In the event that the deficit from operations allocated to all members of the association in any calendar year shall exceed 1 percent of their respective surplus to policyholders attributable to liability insurance written in this state, the amount of such deficit shall be allocated to each member in accordance with the method of determining participation prescribed in this section.

11925 Whenever any member of the association shall be entitled to reimbursement pursuant to this chapter, interest shall also be paid on the amount so reimbursed at the rate of 5 percent per annum. Rates established pursuant to Section 11923 shall consider this interest expense.

Article 4 General Provisions

11930. Any person aggrieved by any rate charged, rating plan, rating system, or underwriting rule followed or adopted by the association may request the board of regents to review the manner in which the rate, plan, system, or rule has been applied with respect to insurance afforded him. Such request may be made by his authorized representative, and shall be written. If the request is not granted within 30 days after it is made, the requestor may treat it as rejected. Any act or decision of the board of regents or any request deemed rejected may be appealed to the commissioner within 30 days. Upon such appeal, the commissioner may make any order consistent with the purposes of this chapter and the plan of operation.

11931 All orders or decisions of the commissioner made pursuant to this chapter shall be subject to judicial review in accordance with law.

11932 There shall be no liability on the part of, and no cause of action of any nature shall arise against the association, its agents or employees, an insurer, any licensed agent or broker, or the commissioner or authorized deputy commissioners, for any statements made in good faith by them in any reports or communications concerning risks insured or to be insured by the association, or at any administrative hearings conducted in connection therewith.

11933. The association shall file in the office of the commissioner, annually on or before the first day of March, a statement which shall contain information with respect to its transactions, condition, operations, and affairs during the preceding year. Such statement shall contain such matters and information as are prescribed and shall be in such form as is approved by the commissioner. The commissioner may, at any time, require the association to furnish additional information with respect to its transactions, condition, or any matter connected therewith considered to be material and of assistance in evaluating the scope, operation and experience of the association.

11934 The commissioner shall make an examination into the affairs of the association at least annually. Such examination shall be conducted in the manner prescribed in Article 4 (commencing with Section 730) of Chapter 1 of Part 2 of Division 1.

11935. The commissioner shall, on or before the first day of July in each year, commencing in 1976, make a report to the Governor, the Speaker of the Assembly, and the President pro Tempore of the Senate, regarding the transactions, condition, operations, and affairs of the association during the preceding year, and such other matters concerning the medical malpractice insurance business deemed appropriate by him.

11936. All insurers required to be members of the association, on and after the effective date of this chapter, by continuing to hold a certificate of authority to transact insurance business, shall be deemed to have consented to the responsibilities imposed by this chapter.

11937. In addition to any powers conferred upon the commissioner by this or any other law, the commissioner is authorized to do all things necessary to enable the State of California and any insurer participating in any program approved by the commissioner fully to participate in any federal program of reinsurance or coinsurance which may be hereafter enacted for purposes similar to the purposes of this chapter.

11938. In accordance with the plan of operation, the association may appoint one or more of its members as a servicing company. Each servicing company shall be reimbursed by the association for all reasonable expenses it incurs and for all payments it makes on behalf of the association. Each servicing company shall have authority to perform any functions of the association that the board of directors lawfully may delegate to it, and to do so on behalf of and in the name of the association. The designation of servicing companies shall be subject to the approval of the commissioner.

11939. Upon the approval by the commissioner, the association shall have the authority to borrow funds when necessary to effectuate the provisions of this chapter.

11940. The association, either in its own name or through servicing companies, may sue and be sued and may use the courts to assert or defend any rights the association may have by virtue of this chapter as reasonably necessary to fully effectuate the provisions thereof.

11941. In addition to the provisions of Section 736, all reasonably necessary costs incurred by the commissioner pursuant to this chapter shall be charged to and promptly reimbursed by the association.

11942. The association shall not be a member of the California Insurance Guarantee Association.

11943. For purposes of Section 12003 of the Revenue and Taxation Code, the word "insurer" shall also mean and include the association "

Amendment 19

On page 37, strike out lines 34 to 36, inclusive, and insert "Code that has made a rate increase after January 1, 1975, shall file a rate increase petition with the commissioner within 10 days after the effective date of this act, or the announcement of such rate increase, whichever is latest in time, if such rate increase exceeds 10 percent of the rate charged".

Amendment 20

On page 39, between lines 9 and 10, insert "SEC. 27.8 The sum of ten thousand dollars (\$10,000) is hereby appropriated from the General Fund to the Insurance Commissioner as an advance on costs incurred by the Department of Insurance pursuant to this act. Such sum shall be returned to the General Fund as soon as the department has been reimbursed pursuant to Section 11941 of the Insurance Code.

SEC. 27.9 The Legislature hereby declares its intent that, to the maximum extent possible, this act shall be construed in such a manner as will preserve its validity as a whole, whether or not particular provisions or applications are held invalid. If any provisions of this act, or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application. To this end, the provisions of this act are declared to be severable."

Set No. 2**Amendment 1**

In line 3 of the title of the printed bill, as amended in Assembly June 17, 1975, after "2361.3", insert ", 2361.5".

Amendment 2

On page 7, line 18, after "division", insert a comma.

Amendment 3

On page 8, line 23, after "made", insert "by regulation".

Amendment 4

On page 8, line 23, strike out "Each"; and strike out lines 24 to 26, inclusive.

Amendment 5

On page 8, line 29, strike out "certificatees", and insert "certificate holders".

Amendment 6

On page 8, line 39, strike out the comma, and insert "who may, but is not required to submit any additional exculpatory or explanatory statements or other information, which statements or other information must be included in the file,".

Amendment 7

On page 9, line 1, after "therefor", insert "who has been assigned to review the activities of a healing arts licentiate".

Amendment 8

On page 9, line 2, after "thereof", insert "who has been assigned to review the activities of a healing arts licentiate".

Amendment 9

On page 9, line 3, after "Affairs", insert "who has been assigned to review the activities of a healing arts licentiate".

Amendment 10

On page 11, line 32, after "may", insert ", by regulation,".

Amendment 11

On page 13, line 21, after "by", insert "physician and surgeon".

Amendment 12

On page 13, line 22, strike out "hearing", and insert "deciding".

Amendment 13

On page 13, strike out lines 29 to 36, inclusive, and insert "responsibility for: (a) developing and administering the physicians and surgeons examination; (b) issuing licenses and certificates, (c) suspending, revoking or limiting licenses and certificates upon order of the Division of Medical Quality; (d) administering programs of continuing competence for certificate holders pursuant to Section 2101 6, (e) approving undergraduate and graduate medical education programs; (f) approving clinical clerkship and special programs, (g) administering student loan programs, grants and reciprocity certificates."

Amendment 14

On page 14, line 1, after "committees", insert "and nonphysician certificate holders".

Amendment 15

On page 14, line 6, strike out "To act", and insert "Acting".

Amendment 16

On page 14, strike out lines 9 and 10, and insert "(d) Reporting to the".

Amendment 17

On page 14, line 38, strike out "Members", and insert "Each member".

Amendment 18

On page 14, line 39, strike out "designated", and insert "assigned".

Amendment 19

On page 14, line 39, strike out "one", and insert "a specific".

Amendment 20

On page 15, line 6, after the first "of", insert "physicians and surgeons".

Amendment 21

On page 15, strike out lines 26 and 27, and insert "the membership of a division to carry".

Amendment 22

On page 15, line 28, after "rule", insert a comma

Amendment 23

On page 16, line 12, after "practice", insert ", and the establishment of individual performance evaluation standards for certificate holders".

Amendment 24

On page 19, strike out lines 27 to 32, inclusive, and insert

"Of those initial appointments of physicians and surgeons to medical quality review committees, for every three physicians so appointed, one shall serve a term which expires on September 1, 1978, one shall serve a term which expires on September 1, 1979, and one shall serve a term which expires on September 1, 1980.

Of those initial appointments of persons other than physicians and surgeons to medical quality review committees, for every two persons so appointed, one shall serve a term which expires on September 1, 1979, and one shall serve a term which expires on September 1, 1980."

Amendment 25

On page 20, strike out lines 6 to 11, inclusive.

Amendment 26

On page 20, line 23, after the first "committee", insert "or panel".

Amendment 27

On page 20, line 23, after the second "committee", insert "or panel".

Amendment 28

On page 20, line 24, after "committee", insert "or panel".

Amendment 29

On page 20, line 25, after "licensee", insert ", or restricting or limiting the extent, scope, or type of practice of the certificate holder for a period of one year or less".

Amendment 30

On page 20, line 27, after "committee", insert "or panel".

Amendment 31

On page 20, line 28, after "committee", insert "or panel".

Amendment 32

On page 20, line 30, after "days", insert ", or restriction or limitation on the extent, scope, or type of practice of the certificate holder for a period exceeding one year,".

Amendment 33

On page 20, line 33, after "days", insert ", or restriction or limitation on the extent, scope, or type of practice of the certificate holder for a period exceeding one year,".

Amendment 34

On page 20, between lines 35 and 36, insert

"2123 11 Each medical quality review committee shall be staffed by at least one medical consultant and sufficient competent investigators from the Division of Investigation of the department as are necessary to carry out the purposes of this article. The investigators so utilized shall be specially trained to investigate medical practice activities."

Amendment 35

On page 20, after line 40, insert
“(b) To investigate all matters assigned to it by the Division of Medical Quality, and such other matters within the jurisdiction of a committee which it finds warrant action.”

Amendment 36

On page 21, line 1, strike out “(b)”, and insert
“(c)”.

Amendment 37

On page 21, line 4, after “or”, insert “a division of”.

Amendment 38

On page 21, line 12, strike out “(c)”, and insert
“(d)”.

Amendment 39

On page 21, line 20, strike out “(d)”, and insert
“(e)”.

Amendment 40

On page 21, line 25, strike out “(e)”, and insert
“(f)”.

Amendment 41

On page 21, line 29, strike out “(f)”, and insert
“(g)”.

Amendment 42

On page 21, line 32, after “committee”, insert “or panel”.

Amendment 43

On page 21, line 38, strike out “ease”, and insert “decision”.

Amendment 44

On page 22, line 4, after “committees”, insert “and panels”.

Amendment 45

On page 22, line 6, strike out “board”, and insert “Division of Licensing”.

Amendment 46

On page 22, line 11, strike out “The board shall make”; and strike out lines 12 to 14, inclusive.

Amendment 47

On page 22, line 17, strike out “board”, and insert “Division of Medical Quality”.

Amendment 48

On page 22, line 23, after “committee”, insert “or panel”.

Amendment 49

On page 22, line 26, after “committee”, insert “or panel”.

Amendment 50

On page 23, line 5, strike out “board”, and insert “bureau”.

Amendment 51

On page 23, line 8, strike out “investigations”, and insert “research”.

Amendment 52

On page 23, line 9, strike out "board", and insert "Divisions of the Board".

Amendment 53

On page 23, line 10, strike out "chairman deems", and insert "divisions deem".

Amendment 54

On page 23, line 11, after "shall", insert ", within 30 days of such termination,".

Amendment 55

On page 23, line 15, after "bureau", insert "pursuant to Section 805".

Amendment 56

On page 23, line 19, after "provider", insert "and the appropriate committee".

Amendment 57

On page 23, between lines 19 and 20, insert
 "2124 8 The bureau shall be the repository for all reports filed with the board pursuant to Article 11 (commencing with Section 800) of Chapter 1 of Division 2

2124 9 It is the intent of this article that the bureau shall serve to provide the divisions of the board with statistical information necessary to carry out their functions "

Amendment 58

On page 23, strike out line 22, and in line 23, strike out "committee, the", and insert
 "2361. The".

Amendment 59

On page 24, strike out lines 32 to 36, inclusive

Amendment 60

On page 25, line 8, after "committee", insert "or panel".

Amendment 61

On page 25, line 10, strike out "by", and insert "upon order of".

Amendment 62

On page 25, line 12, after "committee", insert "or panel".

Amendment 63

On page 25, line 14, strike out "by", and insert "upon order of".

Amendment 64

On page 25, line 15, strike out the colon, and insert "or panel".

Amendment 65

On page 25, line 18, after "committee", insert "or panel".

Amendment 66

On page 26, line 7, strike out "board", and insert "committee".

Amendment 67

On page 26, line 23, strike out "the Division of Medical Quality, the"; strike out line 24; and in line 25, strike out "review committee," and insert "any division of the Board of Medical Quality Assurance".

Amendment 68

On page 28, line 24, strike out "a an", and insert "an".

Amendment 69

On page 37, line 27, after "4800", insert ")".

Amendment 70

On page 37, line 28, after "to", insert "the".

Senate Amendments of June 27, 1975**Amendment 1**

In line 1 of the title of the printed bill, as amended in Senate June 25, 1975, after "2101", insert ", 2116".

Amendment 2

In line 2 of the title, after "2454", insert ", 2456".

Amendment 3

In line 3 of the title, strike out "2361 3,".

Amendment 4

In line 14 of the title, strike out "Section 3333 1", and insert "Sections 3333.1, 3333.2, and 3333.3".

Amendment 5

In line 17 of the title, after the comma, insert "and to add Title 9.1 (commencing with Section 1295) to Part 3 of,".

Amendment 6

In lines 17 and 18 of the title, strike out "to add Section 1259 to the Health and Safety Code;".

Amendment 7

Strike out line 19 of the title.

Amendment 8

On page 14, line 8, strike out "nine", and insert "subject to confirmation by the Senate, seven".

Amendment 9

On page 14, line 16, strike out "nine", and insert "subject to confirmation by the Senate, seven".

Amendment 10

On page 16, line 13, strike out "four", and insert "three".

Amendment 11

On page 16, line 17, strike out "three", and insert "two".

Amendment 12

On page 16, between lines 32 and 33, insert
"SEC 113. Section 2116 of the Business and Professions Code is amended to read:

2116 The board may prosecute all persons guilty of violating the provisions of this chapter

It may employ *investigators, legal counsel, and* any such clerical assistance as it may deem necessary to carry into effect the provisions of this chapter The board may fix the compensation to be paid for such service and may incur such other expenses as it may deem necessary

The Attorney General shall act as the legal counsel for the board and his services shall be a charge against it "

Amendment 13

On page 22, line 30, strike out "recommendation", and insert "proposed decision".

Amendment 14

On page 26, strike out lines 30 through 39, inclusive.

Amendment 15

On page 29, line 31, after "chapter.", insert "No surplus in these receipts shall be deposited in or transferred to the General Fund."

Amendment 16

On page 29, between lines 31 and 32, insert

"SEC 24 05 Section 2456 of the Business and Professions Code is amended to read:

2456 All fees earned by the board and all fines and forfeitures of bail to which the board is entitled shall be reported at the beginning of each month, for the month preceding, to the State Controller. At the same time the entire amount of these collections shall be paid into the state treasury and shall be credited to the contingent fund of the Board of Medical Examiners

This contingent fund shall be for the uses of the board and out of it shall be paid all salaries and all other expenses necessarily incurred in carrying into effect the provisions of this chapter *Any surplus accumulating in such contingent fund shall remain in such fund and shall not be transferred to the General Fund "*

Amendment 17

On page 30, strike out line 25, and insert

"(d) The renewal fee shall be fixed by the board at a sum not in excess of one hundred dollars (\$100) "

Amendment 18

On page 31, line 7, strike out "(a) Except as provided in subdivision (b), an", and insert "(a) An".

Amendment 19

On page 31, line 15, after the comma, insert "veterinarian,".

Amendment 20

On page 31, line 27, strike out "Fifteen", and insert "Ten".

Amendment 21

On page 31, strike out lines 34 to 40, inclusive; on page 32, strike out lines 1 to 4, and insert
"(b)".

Amendment 22

On page 32, line 34, strike out ", or the", strike out lines 35 to 37, inclusive; and in line 38, strike out "Code,".

Amendment 23

On page 33, between lines 30 and 31, insert

"SEC. 24.6. Section 3333.2 is added to the Civil Code, to read:

3333.2. Compensation awarded for injury pursuant to an action based upon the professional negligence of a provider of health care services shall include and be limited to the following actual economic loss:

(a) The reasonable cost of necessary medical, surgical, and hospital treatment.

(b) The reasonable cost of rehabilitation therapy.

(c) All reasonable expenses necessarily incurred in obtaining services in lieu of those the person would have performed for the benefit of himself or his family if he had not been injured.

(d) All reasonable expenses for hiring a substitute to perform self-employment services, in mitigation of loss of income, or for hiring special help necessary to enable the injured person to work and mitigate loss of income.

(e) Loss of earnings, which shall be calculated by determining the probable income for the period for which such loss is incurred, reduced by an amount equal to any income which the injured person earns from substitute work, any income which such person would have earned in available substitute work he was capable of performing but unreasonably failed to undertake, and any income which such person would have earned by hiring an available substitute to perform self-employment services but unreasonably failed to do:

(f) Reasonable attorney fees, which are directly related to claiming and proving a compensable injury.

(g) In no action shall the amount of damages for noneconomic losses exceed two hundred fifty thousand dollars (\$250,000)

SEC. 24.7 Section 3333.1 is added to the Civil Code, to read:

3333.3. Compensation awarded survivors pursuant to an action based upon the professional negligence of a provider of health care services shall include and be limited to the following

(a) Loss of income of the deceased which would probably have been contributed to the survivor if the deceased had not sustained the fatal injury.

(b) All appropriate and reasonable expenses necessarily incurred by a survivor after a patient's death and as a result thereof, in obtaining services in lieu of those which the patient would have performed for the benefit of such survivor if he had not sustained the fatal injury.

(c) All noneconomic damages which would have been recoverable by the survivor under the law but for the enactment of this division.

Compensation awarded survivors pursuant to this section shall be reduced by the expenses which the survivor would probably have incurred but which were avoided by reason of the patient's death."

Amendment 24

On page 34, strike out lines 18 to 27, inclusive, and insert "This time limitation shall be tolled for any of the following: (1) upon proof of fraud, (2) intentional concealment, or (3) the presence of a foreign body in the person of the injured person. Actions by a minor shall be commenced within three years from the date of the alleged wrongful act except that actions by a minor under the full age of six years shall be commenced within three years or prior to his eighth birthday whichever provides a longer period. Such time limitation shall be tolled for minors for any period during which parent or guardian and insurer or health care provider have committed fraud or collusion in the failure to bring an action on behalf of the injured minor for professional negligence "

Amendment 25

On page 35, line 37, strike out "one hundred", and insert "fifty".

Amendment 26

On page 35, line 38, strike out "\$100,000", and insert "\$50,000".

Amendment 27

On page 40, after line 40, insert

"SEC 26 6. Title 91 (commencing with Section 1295) is added to Part 3 of the Code of Civil Procedure, to read:

TITLE 91. ARBITRATION OF MEDICAL MALPRACTICE

1295. (a) Any contract for medical services which contains a provision for arbitration of any dispute as to medical malpractice shall have such provision as the first article of the contract and shall be expressed in the following language "It is understood that any dispute as to medical malpractice, that is as to whether any medical services rendered under this contract were unnecessary or unauthorized or were improperly, negligently or incompetently rendered, will be determined by submission to the California Arbitration Commission on Medical Injury Compensation as provided by California law, and not by a lawsuit or resort to court process except as California law provides for judicial review of arbitration proceedings Both parties to this contract, by entering into it, are giving up their constitutional right to have any such dispute decided in court of law before a jury, and instead are accepting the use of arbitration "

(b) Immediately before the signature line provided for the individual contracting for the medical services must appear the following in at least 10-point bold red type.

"NOTICE BY SIGNING THIS CONTRACT YOU ARE AGREEING TO HAVE ANY ISSUE OF MEDICAL MALPRACTICE DECIDED BY NEUTRAL ARBITRATION AND YOU ARE GIVING UP YOUR RIGHT TO A JURY OR COURT TRIAL. SEE ARTICLE 1 OF THIS CONTRACT."

Once signed, such a contract provision governs all subsequent open book account transactions between the signatories until or unless rescinded by written notice within 30 days after the completion of medical services for which the contract was signed. In the event such contract is terminated during the rendition of medical treatment, such rescission shall entitle the provider of professional services to forthwith cease providing medical treatment. Written notice of such rescission may be given by a guardian or conservator of the patient, if the patient is incapacitated or a minor.

(c) Where the contract is one for medical services to a minor it shall not be subject to disaffirmance if signed by the minor's parent or legal guardian."

Amendment 28

Strike out pages 41 to 52, inclusive, and on page 53, strike out lines 1 to 26, inclusive.

Amendment 29

On page 54, strike out lines 4 to 10, inclusive, and insert "Code shall file a rate increase petition with the commissioner within 10 days after announcing a rate increase which exceeds 10 percent of the rate charged such insured within the preceding 12 months"

Amendment 30

On page 54, line 20, strike out "under subdivision (a)".

Amendment 31

On page 55, between lines 5 and 6, insert

"(f) Professional liability insurance policies subject to the provisions of this section may provide that, within 15 days after the insurance commissioner has made a final determination that the proposed rate is excessive, the insurer may cancel such policy, provided that written notice has been given to the insured not less than 60 days prior to the effective date of the cancellation"

Amendment 32

On page 55, strike out lines 23 to 40, inclusive

Senate Amendments of August 11, 1975

Amendment 1

In line 2 of the heading of the printed bill, as amended in Senate June 27, 1975, after "Calvo", insert ", Chacon".

Amendment 2

In line 1 of the title, after "2361", insert ", 2361.5".

Amendment 3

In line 3 of the title, after "Sections", insert "2100.2".

Amendment 4

In line 4 of the title, strike out "2361 5".

Amendment 5

In line 6 of the title, strike out "to add Section 2015 to,".

Amendment 5.1

In line 15 of the title, strike out "3333.2 and 3333.3", and insert "and 3333.2".

Amendment 5.2

In line 16 of the title, strike out "Section 667.7", and insert "Sections 667.7 and 674.7".

Amendment 6

In lines 21 and 22 of the title, strike out "Part 3 of Division 2 of".

Amendment 6.5

On page 7, strike out line 3; and on page 8, strike out lines 1 to 4, inclusive.

Amendment 7

On page 9, line 3, strike out "Legal Actions", and insert "Professional Reporting".

Amendment 8

On page 9, line 9, after "Optometry", insert ", the Board of Examiners in Veterinary Medicine".

Amendment 9

On page 9, line 16, after "of", insert "a".

Amendment 10

On page 9, line 16, after "state", insert "which constitutes unprofessional conduct under Section 2383, pursuant to the reporting requirements of Section 803".

Amendment 11

On page 9, line 22, after "services", insert ", pursuant to the reporting requirements of Section 801 or 802".

Amendment 12

On page 9, line 24, after "regulation", insert ", pursuant to subdivision (b) of this section; (4) disciplinary information reported pursuant to Section 805".

Amendment 13

On page 9, between lines 34 and 35, insert "Upon a determination by the committee that the complaint is without merit, the central file shall be purged of information relating to the complaint."

Amendment 14

On page 9, line 35, strike out "such", and insert "central".

Amendment 15

On page 12, line 39, after "report", insert ", who is notified by the board within 60 days of the filing of the report,".

Amendment 16

On page 13, line 14, after "is", insert "denied staff privileges,".

Amendment 17

On page 13, line 16, after "restricted", insert "for a cumulative total of 45 days in any calendar year".

Amendment 18

On page 13, line 16, after "any", insert "medical".

Amendment 19

On page 13, line 17, strike out "10", and insert "20 working".

Amendment 20

On page 13, line 19, strike out "said", and insert "the".

Amendment 21

On page 13, between lines 25 and 26, insert

"The reporting required herein shall not act as a waiver of confidentiality of medical records and committee reports. The information reported or disclosed shall be kept confidential except as provided in subdivision (c) of Section 800."

Amendment 22

On page 14, strike out lines 1 to 19, inclusive.

Amendment 22.3

On page 14, line 25, strike out "17", and insert "19".

Amendment 22.6

On page 14, line 33, strike out "17", and insert "19".

Amendment 23

On page 14, between lines 35 and 36, insert

"SEC. 4.5. Section 2100.2 is added to the Business and Professions Code, to read:

2100.2. Notwithstanding any other provision of law, the terms "board" or "Board of Medical Examiners" as used in this chapter shall mean the Board of Medical Quality Assurance."

Amendment 24

On page 16, line 10, after the period, insert "Physician members of the board shall be appointed from physicians who have served at least one term on a district review committee or a medical quality review committee."

Amendment 24.5

On page 16, line 23, strike out "five", and insert "seven".

Amendment 25

On page 17, line 6, after "counsel", insert ", medical consultants"

Amendment 26

On page 17, line 11, after "as the", insert "prosecuting"

Amendment 26.1

On page 19, line 4, strike out "five", and insert "14".

Amendment 26.3

On page 19, strike out lines 5 through 22, inclusive, and insert

"(a) The first district consists of the Counties of Del Norte, Siskiyou, Modoc, Humboldt, Trinity, Shasta, Lassen, Tehama, Plumas, Mendocino, Glenn, Butte, Lake, and Colusa.

(b) The second district consists of the Counties of Sierra, Yuba, Sutter, Yolo, Placer, El Dorado, and Sacramento.

(c) The third district consists of the Counties of Sonoma, Napa, and Solano

(d) The fourth district consists of the Counties of Marin, San Francisco, and San Mateo

(e) The fifth district consists of the Counties of Contra Costa and Alameda.

(f) The sixth district consists of the Counties of Alpine, Amador, Calaveras, Tuolumne, San Joaquin, Stanislaus, and Merced.

(g) The seventh district consists of the County of Santa Clara.

(h) The eighth district consists of the Counties of San Benito, Monterey, and San Luis Obispo.

(i) The ninth district consists of the Counties of Mariposa, Madera, Fresno, Kings, Tulare, and Kern.

(j) The 10th district consists of the Counties of Santa Barbara and Ventura.

(k) The 11th district consists of the County of Los Angeles

(l) The 12th district consists of the Counties of Mono, Inyo, San Bernardino, and Riverside.

(m) The 13th district consists of the County of Orange.

(n) The 14th district consists of the Counties of San Diego and Imperial."

Amendment 26.5

On page 19, strike out lines 30 to 40, inclusive; on page 20, strike out lines 1 to 18 inclusive, and insert

"(a) The first district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.

(b) The second district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysicians licentiates of a healing arts board.

(c) The third district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.

(d) The fourth district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(e) The fifth district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(f) The sixth district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.

(g) The seventh district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(h) The eighth district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.

(i) The ninth district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(j) The 10th district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.

(k) The 11th district shall be composed of 20 members, 12 of whom shall hold valid physician's and surgeon's certificates, four of whom shall be public members, and four of whom shall be nonphysician licentiates of a healing arts board.

(l) The 12th district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(m) The 13th district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(n) The 14th district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board."

Amendment 27

On page 22, line 22, strike out "At", and insert "Within 30 days of".

Amendment 28

On page 23, between lines 2 and 3, insert
"The Division of Medical Quality shall act upon a proposed decision within 90 days of receiving such decision from a committee."

Amendment 29

On page 23, lines 5 and 6, strike out "Division of Investigation of the department", and insert "board".

Amendment 30

On page 23, lines 12 and 13, strike out "by the Division of Investigation of the department".

Amendment 31

On page 23, lines 19 and 20, strike out "by the Division of Investigation of the department".

Amendment 32

On page 23, line 33, strike out "circumstances".

Amendment 33

On page 23, lines 33 and 34, strike out "judgment or settlement", and insert "judgments or settlements".

Amendment 34

On page 23, line 36, strike out "three thousand dollars (\$3,000)", and insert "a cumulative total of thirty thousand dollars (\$30,000)".

Amendment 34.3

On page 23, between lines 38 and 39, insert

"(e) Investigations conducted pursuant to this section shall be commenced within 15 days and completed within three months. Where applicable, a progress report shall be issued to the complainant within 30 days of the initiation of the investigation. Once an investigation has been completed and grounds for disciplinary action are found by the Attorney General to exist, the Attorney General shall file an accusation with a committee within 30 days. A hearing shall be held by a committee or a panel of a committee within 30 days of the filing of an accusation. A decision shall be rendered by a committee or panel of a committee within 30 days after commencement of hearing."

Amendment 34.7

On page 23, line 39, strike out "(e)", and insert "(f)".

Amendment 35

On page 23, line 40, strike out "or".

Amendment 36

On page 23, line 40, after "(e)", insert ", or (d)".

Amendment 37

On page 24, line 39, strike out "2124 8", and insert "2124 45".

Amendment 38

On page 25, between lines 9 and 10, insert

"Upon a determination by the committee or panel that the communication is without merit, the central file shall be purged of information relating to the communication."

Amendment 38.5

On page 25, strike out lines 16 to 40, inclusive; on page 26, strike out lines 1 and 2, and insert

"2124.5 There is hereby created under the Board of Medical Quality Assurance the Bureau of Medical Statistics. The purpose of the bureau shall be to provide the board and its divisions with statistical information necessary to carry out their functions of licensing, medical education, medical quality and discipline.

2124.6. The bureau shall conduct such research including the gathering of appropriate statistics as deemed desirable by the board and its divisions and related to their functions. The bureau shall have access to all medical or other information pertaining to the provision of health care services not privileged under law. In the gathering of such information, the bureau shall initially draw upon existing sources of pooled health data and may purchase such information or contract for the development of such data. In the event that such sources are deemed inadequate by the board or a division the bureau may require any state agency or health care provider to transmit to the bureau statistical information not privileged under law, provided that no provider shall be required to incur unreasonable expenses in the provision of such information. The bureau shall not gather or maintain statistical or other information that identifies individual patients, physicians or other health care providers, except for reports required by Article 11 (commencing with Section 800) of Chapter 1 of Division 2.

2124.7. Each insurer shall, within 30 days of such termination, furnish the bureau with the names of all health care providers in this state whose malpractice liability insurance has been terminated. Any health facility that denies a health care provider privileges shall report such information to the bureau pursuant to Section 805. The bureau, upon the receipt of information submitted pursuant to this section, shall immediately transmit a copy of such information to the named health care provider and the appropriate committee.

2124.8. The bureau shall be the repository for all reports filed with the board pursuant to Article 11 (commencing with Section 800) of Chapter 1 of Division 2.

2124.85. The bureau shall report at least annually to the Legislature on the data it has collected pursuant to this article. Such reports and any data not privileged under the law shall also concurrently be made available to the public."

Amendment 39

On page 29, line 23, after "applied", insert "solely".

Amendment 40

On page 29, strike out lines 26 to 40, inclusive, and insert

"SEC 24.05. Section 2436 of the Business and Professions Code is amended to read:

2456. All fees earned by the board and all fines and forfeitures of bail to which the board is entitled shall be reported at the beginning of each month, for the month preceding, to the State Controller. At the same time the entire amount of these collections shall be paid into the state treasury and shall be credited to the contingent fund of the Board of Medical Examiners.

This contingent fund shall be for the uses of the board and out of it shall be paid all salaries and all other expenses necessarily incurred in carrying into effect the provisions of this chapter. *Any surplus accumulating in such contingent fund shall remain in such fund and shall not be transferred to the General Fund.*

Amendment 41

On page 31, line 22, strike out "physician and surgeon, dentist,"; strike out lines 23 to 27, inclusive, and insert "health care provider".

Amendment 42

On page 31, strike out line 29, and in line 30, strike out "for error or omission in such person's practice".

Amendment 43

On page 32, line 18, strike out "monthly".

Amendment 44

On page 32, line 29, strike out " , "recovered" means", and insert " : (1) "Recovered" means".

Amendment 45

On page 32, line 35, strike out the period, and insert " ,

(2) "Health care provider" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or licensed pursuant to Chapter 25 (commencing with Section 1440) of Division 2 of the Health and Safety Code, and any clinic, health dispensary, or health facility, licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code. "Health care provider" includes the legal representatives of a health care provider;

(3) "Professional negligence" means an action for personal injury or wrongful death proximately caused by a health care provider's negligent act or omission to act in the rendering of professional services, providing that such services are within the scope of services for which licensed and are not within any restriction imposed by the licensing agency or any licensed hospital."

Amendment 46

On page 33, lines 19 and 20, strike out "provider of health care services", and insert "health care provider".

Amendment 46.5

On page 33, line 35, strike out "and may also", strike out lines 36 and 37, and insert a period.

Amendment 47

On page 34, between lines 1 and 2, insert

"(c) For the purposes of this section:

(1) "Health care provider" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or licensed pursuant to Chapter 25 (commencing with Section 1440) of Division 2 of the Health and Safety Code; and any clinic, health dispensary, or health facility, licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code "Health care provider" includes the legal representatives of a health care provider,

(2) "Professional negligence" means an action for personal injury or wrongful death proximately caused by a health care provider's negligent act or omission to act in the rendering of professional services, providing that such services are within the scope of services for which licensed and are not within any restriction imposed by the licensing agency or any licensed hospital."

Amendment 47.5

On page 34, strike out lines 4 to 40, inclusive; on page 35, strike out lines 1 to 15, inclusive, and insert

"3333 2. (a) In any action for injury against a health care provider based on professional negligence, the injured plaintiff shall be entitled to recover noneconomic losses to compensate for pain, suffering, inconvenience, physical impairment, disfigurement and other nonpecuniary damage

(b) In no action shall the amount of damages for noneconomic losses exceed two hundred fifty thousand dollars (\$250,000) "

Amendment 48

On page 35, strike out lines 19 to 23, inclusive.

Amendment 49

On page 35, line 24, strike out "hospital as the employer of any such person", and insert "health care provider".

Amendment 50

On page 35, line 25, strike out "or for", strike out line 26, and in line 27, strike out "error or omission in such person's practice".

Amendment 50.3

On page 36, line 1, strike out "This time limitation shall be", and insert "In no event shall the time for commencement of legal action exceed three years unless".

Amendment 50.7

On page 36, line 3, after "body", insert ", which has no therapeutic or diagnostic purpose or effect,"

Amendment 51

On page 36, line 11, after "and", insert "defendant's".

Amendment 52

On page 36, between lines 13 and 14, insert

"For the purposes of this section:

(1) "Health care provider" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or licensed pursuant to Chapter 25 (commencing with Section 1440) of Division 2 of the Health and Safety Code, and any clinic, health dispensary, or health facility, licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code "Health care provider" includes the legal representatives of a health care provider,

(2) "Professional negligence" means an action for personal injury or wrongful death proximately caused by a health care provider's negligent act or omission to act in the rendering of professional services, providing that such services are within the scope of services for which licensed and are not within any restriction imposed by the licensing agency or any licensed hospital."

Amendment 53

On page 36, line 21, strike out "defendant's", and insert "health care provider's".

Amendment 54

On page 36, line 22, strike out ", including, but not limited to, the"; strike out lines 23 and 24, and in line 25 strike out "Health and Safety Code,".

Amendment 54.5

On page 36, line 26, after "given", insert "at least".

Amendment 55

On page 37, between lines 3 and 4, insert

"(f) For the purposes of this section

(1) "Health care provider" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act or licensed pursuant to Chapter 25 (commencing with Section 1440) of Division 2 of the Health and Safety Code; and any clinic, health dispensary or health facility, licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code "Health care provider" includes the legal representatives of a health care provider,

(2) "Professional negligence" means an action for personal injury or wrongful death proximately caused by a health care provider's negligent act or omission to act in the rendering of professional services, providing that such services are within the scope of services for which licensed and are not within any restriction imposed by the licensing agency or any licensed hospital."

Amendment 56

On page 37, line 14, strike out "personal"

Amendment 57

On page 37, line 15, strike out "wrongful death", and insert "damages".

Amendment 58

On page 37, line 20, strike out "if the payment of such"; and strike out lines 21 and 22, inclusive.

Amendment 59

On page 37, line 24, after "\$50,000", insert "in future damages"

Amendment 60

On page 37, line 33, after the period insert "Upon termination of periodic payments of future damages, the court shall order the return of this security, or so much as remains, to the judgment debtor"

Amendment 60.5

On page 38, strike out lines 2 to 17, inclusive, and insert

"(2) In the event that the court finds that the judgment debtor has exhibited a continuing pattern of failing to make the payments, as specified in paragraph (1), the court shall find the judgment debtor in contempt of court and in addition to the required periodic payments, shall order the judgment debtor to pay the judgment creditor all damages caused by the failure to make such periodic payments, including court costs and attorney's fees."

Amendment 61

On page 38, below line 40, insert

"(3) "Health care provider" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act or licensed pursuant to Chapter 25 (commencing with Section 1440) of Division 2 of the Health and Safety Code, and any clinic health dispensary or health facility, licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code. "Health care provider" includes the legal representatives of a health care provider.

(4) "Professional negligence" means an action for personal injury or wrongful death proximately caused by a health care provider's negligent act or omission to act in the rendering of professional services, providing that such services are within the scope of services for which licensed and are not within any restriction imposed by the licensing agency or any licensed hospital."

Amendment 61.5

On page 39, between lines 21 and 22, insert
SEC. 26.4. Section 674.7 is added to the Code of Civil Procedure,
to read:

674.7. A certified copy of any judgment or order of the superior court of this state issued pursuant to Section 6677, when recorded with the recorder of any county, shall from such recording become a lien upon all real property of the judgment debtor, not exempt from execution, in such county, owned by him at the time, or which he may afterwards and before the lien expires, acquire, for the respective amounts and installments as they mature (but shall not become a lien for any sum or sums prior to the date they severally become due and payable) which liens shall have, to the extent herein provided and for the period of 10 years from such recording, the same force, effect and priority as the lien created by recordation of an abstract of a money judgment pursuant to Section 674.

The certificate of the judgment debtor, certified by him under penalty of perjury, that all amounts and installments which have matured under said judgment prior to the date of such certificate have been fully paid and satisfied shall, when acknowledged and recorded, be prima facie evidence of such payment and satisfaction and conclusive in favor of any person dealing in good faith and for a valuable consideration with the judgment debtor or his successors in interest.

Whenever a certified copy of any judgment or order of the superior court issued pursuant to Section 6677 has been recorded with the recorder of any county, the expiration or satisfaction thereof made in the manner of an acknowledgment of a conveyance of real property may be recorded."

Amendment 62

On page 42, line 34, strike out "medical malpractice", and insert "professional negligence".

Amendment 63

On page 43, lines 1 and 2, strike out "the California Arbitration Commission on Medical Injury Compensation", and insert "arbitration".

Amendment 63.5

On page 43, line 7, after "in", insert "a".

Amendment 64

On page 43, strike out lines 20 to 33, inclusive, and insert

"(c) Once signed, such a contract governs all subsequent open book account transactions for medical services for which the contract was signed until or unless rescinded by written notice within 30 days of signature. Written notice of such rescission may be given by a guardian or conservator of the patient if the patient is incapacitated or a minor.

(d) Where the contract is one for medical services to a minor, it shall not be subject to disaffirmance if signed by the minor's parent or legal guardian.

(e) Such a contract is not a contract of adhesion, nor unconscionable nor otherwise improper, where it complies with subdivisions (a), (b) and (c) of this section.

(f) Subdivision (a), (b) and (c) shall not apply to any health care service plan contract offered by an organization registered pursuant to Article 25 (commencing with Section 12530), of Division 3 of Title 2 of the Government Code, which has been negotiated to contain an arbitration agreement with subscribers and enrollees under such contract."

Amendment 65

On page 56, strike out lines 22 to 40, inclusive; and on page 57, strike out lines 1 to 14, inclusive, and insert

"11587. (a) Any insured person who holds a certificate or license issued pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, a license issued pursuant to the Osteopathic Initiative Act, or a license as a health facility pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, who alleges to be aggrieved by any medical malpractice insurance rate adopted by an insurer licensed pursuant to Part 2 (commencing with Section 680) of Division 1 may, in writing, request of such insurer an explanation of the composition of such rate and of its application to him. If such explanation is alleged to be inadequate, insufficient, or is not provided within 30 days after making the request therefor, such person may file a simple petition for hearing with the commissioner. The commissioner shall conduct public hearings within 15 days after a petition has been filed with him to determine whether such rate is justified, according to the provisions of Chapter 9 (commencing with Section 1850) of Part 2 of Division 1. The public hearing shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, except that any affected person, or his legal representative, shall, upon application to the commissioner at least five days prior to the hearing, be allowed to reasonably participate in the examination of the insurer. The commissioner shall determine within 45 days after such petition has been filed whether such rate is so justified. In the event the commissioner finds such rate, or some part thereof, not to be so

justified, he shall inform the insurer, in detail, of the facts upon which he bases his conclusion and of the specific provisions of law upon which he relies. In addition, the commissioner shall order the insurer to either reduce the rate to the level deemed by him to be justified or cancel the policy upon 60 days notice to the insured and tender to the insured all of the then unearned premium due such insured. Such order shall be effective 15 days from the date thereof, upon which date such insurer shall mail any cancellation notice required to be given an affected insured.

(b) For the purposes of this section, two or more petitions received by the commissioner alleging grievances concerning one rate adopted by an insurer shall be considered, heard, and determined simultaneously. If additional such petitions alleging substantially similar grievances are received by the commissioner after the issuance of a determination by him upon earlier filed petitions as herein provided, such additional petitions shall be automatically subject to such determination, which fact the commissioner shall communicate in writing to the petitioner and his insurer. The commissioner shall disregard and deny any petition alleging grievances based upon any rate increase not greater than 10 percent of the annualized rate previously charged the petitioner."

Amendment 66

On page 57, lines 15 and 16, strike out "filing a petition pursuant to this section".

Amendment 67

On page 57, strike out lines 26 to 40, inclusive, on page 58, strike out lines 1 to 3, inclusive, and insert "(a)

(e) The provisions of this section shall remain in force and effect until December 31, 1977, and on that date, this section is repealed, except that they shall continue in effect from year to year upon a finding by the Insurance Commissioner 30 days prior to the beginning of each year that there still exists a malpractice insurance crisis."

Amendment 68

On page 58, lines 12 and 13, strike out "at prevailing rates", and insert "at rates which are not excessive or unfairly discriminatory as defined in Section 790 03".

Amendment 69

On page 58, line 14, after "corporations," insert "solely".

Demand for Previous Question

Messrs Sieglar, Nimmo, McVittie, Boatwright, and Robinson demanded the previous question. Demand sustained.

The question being: Shall the Assembly concur in the Senate amendments to Assembly Bill No. 1?

The roll was called, and the Assembly concurred in the above Senate amendments to Assembly Bill No 1 by the following vote:

AYES—60

Antonovich	Chimbole	Hughes	Mori
Arnett	Cline	Ingalls	Murphy
Badham	Collier	Kapiloff	Nestande
Bane	Craven	Keyser	Nimmo
Banna	Davis	Lancaster	Peino
Beverly	Deddeh	Lanterman	Priolo
Boatwright	Duffy	Lewis	Robinson
Briggs	Egeland	Lockyer	Sutt
Burke	Fenton	MacDonald	Thomas, Vincent
Calvo	Foran	Maddy	Thomas, William
Campbell	Garamendi	McAlister	Thurman
Carpenter	Greene	McLennan	Tucker
Chacon	Gualco	McVittie	Vasconcellos
Chappie	Hart	Mobley	Vicencia
Chel	Hayden	Montoya	Wornum

NOES—19

Alatorre	Goggin	Papan	Torres
Berman	Keene	Ralph	Warren
Brown	Knox	Rosenthal	Wilson
Cullen	Mead	Siegler	Mr Speaker
Dixon	Miller	Sieroty	

**Motion to Reconsider Concurrence in Senate Amendments to
Assembly Bill No. 1 on Next Legislative Day**

Mr Knox moved to reconsider on the next legislative day the vote whereby the Senate amendments to Assembly Bill No 1 were this day concurred in by the Assembly.

Assembly Bill No 1 ordered to the unfinished business file.

RECESS

At 4:49 p.m., Speaker McCarthy declared the Assembly recessed until 5:41 p.m.

REASSEMBLED

At 5:41 p.m., the Assembly reconvened.

Hon. Leo T. McCarthy, Speaker of the Assembly, presiding

VOTE CHANGES

The following Members were granted unanimous consent to record their votes:

On concurrence in Senate amendments to Assembly Bill No 1: Mr. Chappie, "Aye"; Mr. Badham, "No" to "Aye"; Mr. Gualco, "Aye".

ADJOURNMENT

At 5:42 p.m., Speaker McCarthy declared the Assembly adjourned until 9:30 a.m., Tuesday, September 9, 1975.

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNALFIFTY-THIRD LEGISLATIVE DAY
ONE HUNDRED FOURTEENTH CALENDAR DAY**IN ASSEMBLY**Assembly Chamber, Sacramento
Tuesday, September 9, 1975

The Assembly met at 5:29 p.m.

Hon. Louis J. Papan, Speaker pro Tempore of the Assembly, presiding.

Chief Clerk James D. Driscoll at the Desk.

Assistant Clerk Ray Monday reading.

ROLL CALL

The roll was called, and the following answered to their names—77.

Alatorre	Collier	Keene	Papan
Antonovich	Craven	Keysor	Perino
Arnett	Cullen	Knox	Priolo
Badham	Davis	Lanterman	Ralph
Bane	Deddeh	Lewis	Rosenthal
Bannai	Dixon	Lockyer	Siegler
Berman	Duffy	Macdonald	Sieroty
Beverly	Egeland	Maddy	Sutt
Boatwright	Fenton	McAhter	Thomas, Vincent
Briggs	Foran	McLennan	Thomas, William
Brown	Garamendi	McVittie	Thurman
Burke	Goggin	Meade	Tories
Calvo	Greene	Miller	Tucker
Campbell	Gualco	Mobley	Vasconcellos
Carpenter	Hart	Montoya	Vicencia
Chacon	Hayden	Mori	Warren
Chappie	Hughes	Murphy	Wilson
Chel	Ingalls	Nestande	Worrum
Chimbote	Kapiloff	Nimmo	Mr. Spenter
Cline			

Quorum present.

PRAYER

The following prayer was offered by the Chaplain, Father Leo McAllister:

Father, You gave us the priceless gifts of intellect and will. You gave us a mandate to exercise our superiority over all other creatures, not in a detached or abusive manner, but appreciatively and creatively.

In fulfilling this role do not let us forget our brothers and sisters who share this mandate with us. While we can see You, God, in Your creation, we can also see ourselves in our brothers and sisters. From the abnormalities in society help us learn more accurately, and work more diligently for the normal in ourselves—AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker pro Tempore Papan, Mr Burke then led the Assembly in the pledge of allegiance to the Flag.

READING OF THE JOURNAL DISPENSED WITH

By unanimous consent, reading of the Journal of the previous legislative day was dispensed with.

LEAVES OF ABSENCE FOR THE DAY

The following Members were granted leaves of absence for the day, because of illness:

Mr. Lancaster, on request of Speaker pro Tempore Papan.

Mr. Robinson, on request of Speaker pro Tempore Papan.

MESSAGES FROM THE SENATE

Senate Chamber, September 8, 1975

Mr. Speaker: I am directed to inform your honorable body that the Senate on this day passed:

Senate Bill No. 24

DARRYL R. WHITE, Secretary of the Senate
By John W. Rovane, Chief Assistant Secretary

Senate Chamber, September 9, 1975

Mr. Speaker: I am directed to inform your honorable body that the Senate on this day adopted:

Senate Concurrent Resolution No. 3

DARRYL R. WHITE, Secretary of the Senate
By John W. Rovane, Chief Assistant Secretary

FIRST READING AND REFERENCE OF SENATE BILLS

The following bills were read the first time, and ordered held at the Desk:

Senate Bill No. 24—An act to amend Sections 4040, 11890, 11895, 11896, 11897, 11898, 11900, 11902, 11902.2, 11903, and 11904 of the Insurance Code, relating to medical malpractice insurance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

Senate Concurrent Resolution No. 3—Relative to the University of California.

REFERENCE OF BILLS TO COMMITTEE

Pursuant to the Assembly Rules, the following bill was referred to committee:

<i>Senate Bill No.</i>	<i>Committee</i>
24	Finance, Insurance, and Commerce

**REQUEST TO CONTINUE MOTION TO RECONSIDER CONCURRENCE
IN SENATE AMENDMENTS TO ASSEMBLY BILL NO. 1**

Mr. Knox asked for unanimous consent that his motion to reconsider the vote on concurrence in Senate amendments to Assembly Bill No. 1 be continued until the next legislative day.

Mr. McLennan withheld unanimous consent

**Motion to Continue Motion to Reconsider Concurrence in Senate
Amendments to Assembly Bill No. 1**

Mr. Knox moved that the motion to reconsider the vote whereby Senate amendments to Assembly Bill No. 1 were concurred in be continued to the next legislative day.

Motion Withdrawn

Mr. Knox with granted unanimous consent to withdraw his motion to continue the motion to reconsider the vote on concurrence in Senate amendments to Assembly Bill No. 1.

**Motion to Reconsider Concurrence in Senate Amendments
to Assembly Bill No. 1 Waived**

Mr. Knox waived his motion to reconsider the vote whereby Senate amendments to Assembly Bill No. 1 were concurred in by the Assembly Assembly Bill No. 1 ordered enrolled.

BILLS WITHDRAWN FROM INACTIVE FILE

The following bill was withdrawn from the inactive file, and placed upon the third reading file:

Assembly Bill No. 4, on request of Mr. Goggin.

JOINT RULE 62(a) WAIVED

Mr. McAlister was granted unanimous consent that Joint Rule 62(a) be waived for the purpose of setting Senate Bill No. 24 for hearing in the Committee on Finance, Insurance, and Commerce at 4:30 p.m. on September 10, 1975.

ADJOURNMENT

At 5:41 p.m., Speaker pro Tempore Papan declared the Assembly adjourned until 9:30 a.m., Wednesday, September 10, 1975

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk



CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNALFIFTY-FOURTH LEGISLATIVE DAY
ONE HUNDRED FIFTEENTH CALENDAR DAY**IN ASSEMBLY**Assembly Chamber, Sacramento
Wednesday, September 10, 1975

The Assembly met at 4:23 p.m.

Hon. Frank Murphy, Jr., Member of the Assembly, 28th District,
presiding.

Chief Clerk James D. Driscoll at the Desk.

Assistant Clerk Ray Monday reading.

ROLL CALL

The roll was called, and the following answered to their names--77:

Alatorre	Craven	Keysor	Papan
Antonovich	Cullen	Knox	Perino
Arnett	Davis	Lancaster	Priolo
Bane	Deddeh	Lanterman	Ralph
Bannai	Dixon	Lewis	Robinson
Berman	Duffy	Lockyer	Rosenthal
Beverly	Egeland	MacDonald	Siegler
Boatwright	Fenton	Maddy	Sieroty
Briggs	Foran	McAlister	Thomas, Vincent
Brown	Garamendi	McLennan	Thomas, William
Burke	Goggin	McVittie	Thurman
Calvo	Greene	Mende	Torres
Campbell	Gualco	Miller	Tucker
Carpenter	Hart	Mobley	Vasconcellos
Chacon	Hayden	Montoya	Vicencia
Chapple	Hughes	Mori	Warren
Chel	Ingalls	Murphy	Wilson
Chumbote	Kepiloff	Nestande	Wornum
Cline	Keene	Nimmo	Mr. Speaker
Collier			

Quorum present.

PRAYER

The following prayer was offered by the Chaplain, Father Leo McAllister:

God, We are grateful for ideas and concepts which have come to mind in the shadow of our mourning for Ed Z'berg.

And so we pray that all members of this house will be legislators rather than bill carriers; that each one will attack issues and not personalities; that each one will be true to oneself and as a result true to others; that integrity, openness and veracity will be the order of the day and season.—AMEN.

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker McCarthy, Mr. Vincent Thomas then led the Assembly in the pledge of allegiance to the Flag.

MOTION TO DISPENSE WITH READING OF THE JOURNAL

Further reading of the Journal of the previous legislative day was dispensed with on motion of Mr. Papan, seconded by Mr. Maddy.

LEAVES OF ABSENCE FOR THE DAY

The following Member was granted leave of absence for the day, on legislative business, and desired to waive his per diem:

Mr. Suitt, on request of Speaker pro Tempore Papan.

The following Member was granted leave of absence for the day, on personal business, and desired to waive his per diem:

Mr. Badham, on request of Speaker pro Tempore Papan.

REFERENCE OF BILLS TO COMMITTEE

Pursuant to the Assembly Rules, the following resolution was referred to committee:

Senate Concurrent

Resolution No.

Committee

3-----Rules

BILLS PASSED ON FILE

Assembly Bill No. 4—Passed on file.

REQUEST FOR UNANIMOUS CONSENT

Mr. McAlister was granted unanimous consent that the Desk be held open today to receive the Report of the Committee on Finance, Insurance, and Commerce, relative to Senate Bill No 24, and that when the bill is reported from the committee that it be taken up without reference to file, for purpose of second reading, and adopting committee amendments.

RECESS

At 4:26 p.m., Acting Speaker Murphy declared the Assembly recessed.

REASSEMBLED

At 5:46 p.m., the Assembly reconvened.

Hon. Leo T. McCarthy, Speaker of the Assembly, presiding.

REPORTS OF STANDING COMMITTEES
Committee on Finance, Insurance, and Commerce

Assembly Chamber, September 10, 1975

Mr. Speaker: Your Committee on Finance, Insurance, and Commerce reports:
 Senate Bill No. 24

With amendments with the recommendation - Amend, do pass, as amended, and be re-referred to the Committee on Ways and Means

McALISTER, Chairman

CONSIDERATION OF SENATE BILL NO. 24
BY UNANIMOUS CONSENT

Pursuant to unanimous consent granted earlier this day, Senate Bill No. 24 was taken up, without reference to file, for the purpose of reading the bill a second time and adopting the committee amendments at this time.

Senate Bill No. 24—An act to amend Sections 4040, 11890, 11895, 11896, 11897, 11898, 11900, 11902, 11902 2, 11903, and 11904 of the Insurance Code, relating to medical malpractice insurance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

Bill read second time.

Consideration of Committee Amendments

The following amendments, proposed by the Committee on Finance, Insurance, and Commerce, were read, and adopted:

Set No. 1

Amendment 1

In line 1 of the title of the printed bill, as amended in Senate September 5, 1975, after "Sections", insert "800, 804, 2100 6, 2101, 2116, 2123.1, 2123 2, 2123 3, 2123.9, 2123.10, 2124 2124 2, 2124 45, 2124 7, 2372, 2372.5, 2454, 2456, 2458, and 6146 of, and to add Sections 2101 7 and 2601.5 to, the Business and Professions Code, to amend Sections 3333.1 and 3333.2 of the Civil Code, to amend Sections 340 5, 364, 667, and 1295 of the Code of Civil Procedure and to amend Sections".

Amendment 2

In line 1 of the title, after "4040", insert ", 11588".

Amendment 3

In line 3 of the title, strike out "insurance".

Amendment 3.5

In line 3 of the title, after the second comma, insert "and to amend Assembly Bill 1 of the 1975-76 Second Extraordinary Session,".

Amendment 4

On page 2, strike out line 1, and insert
 "SECTION 1. Section 800 of the Business and Professions Code, as added by Assembly Bill No. 1 of the 1975-76 Second Extraordinary Session, is amended to read:

800. (a) The Board of Medical Quality Assurance, the Board of Dental Examiners, the Board of Osteopathic Examiners, the California

Board of Registered Nursing, the Board of Vocational Nurse and Psychiatric Technician Examiners, the State Board of Optometry, the Board of Examiners in Veterinary Medicine, and the State Board of Pharmacy shall each separately create and maintain a central file of the names of all persons who hold a license, certificate or similar authority from such board. Each such central file shall be so created and maintained as to provide an individual historical record for each such person with respect to (1) any conviction of a crime in this or any other state which constitutes unprofessional conduct under Section 2983, pursuant to the reporting requirements of Section 803; (2) any judgment or settlement requiring him or his insurer to pay any amount of damages in excess of three thousand dollars (\$3,000) with respect to any claim that injury or death was proximately caused by such person's negligence, error or omission in practice or rendering of unauthorized professional services, pursuant to the reporting requirements of Section 801 or 802; (3) any public complaints for which provision is hereinafter made by regulation, pursuant to subdivision (b) of this section; (4) disciplinary information reported pursuant to Section 805

(b) Each such board shall prescribe and promulgate forms on which members of the public and other licensees or certificate holders may file written complaints to the board alleging any act of misconduct in or connected with the performance of professional services by such person.

Each such complaint shall be immediately forwarded to the appropriate medical quality review committee for action, pursuant to Article 2.3 (commencing with Section 2123) of Chapter 5.

Upon a determination by the committee that the complaint is without merit, the central file shall be purged of information relating to the complaint.

(c) The contents of any central file shall be confidential except that it may be reviewed (1) by the person licensee involved or his counsel or representative who may, but is not required to submit any additional exculpatory or explanatory statements or other information, which statements or other information must be included in the file, (2) by any district attorney or representative or investigator therefor who has been assigned to review the activities of a healing arts licensee, (3) by any representative of the Attorney General's office or investigator thereof who has been assigned to review the activities of a healing arts licensee, or (4) by any investigator of the Department of Consumer Affairs who has been assigned to review the activities of a healing arts licensee. Such person licensee may, but is not required to submit any additional exculpatory or explanatory statements or other information which statements or other information must be included in the file.

SEC. 1.01. Section 804 of the Business and Professions Code, as added by Assembly Bill No. 1 of the 1975-76 Second Extraordinary Session, is amended to read:

804. (a) Any agency to whom reports are to be sent under Section 801 or Section 802, 802, or 803, may develop a prescribed form for the making of such reports, usage of which it may, but need not, by regulation require in all cases,

(b) A report required to be made by ~~any of the foregoing sections~~ Sections 801 and 802 shall be deemed complete only if it includes the following information: (1) the name and last known business and residential addresses of every plaintiff or claimant involved in the matter, whether or not each such person recovered anything, (2) the name and last known business and residential addresses of every physician or provider of health care services who was claimed or alleged to have acted improperly, whether or not such person was a named defendant and whether or not any recovery or judgment was had against such person; (3) the name, address and principal place of business of every insurer providing professional liability insurance as to any person named in (2) and the insured's policy number; (4) the name of the court in which the action or any part of the action was filed along with the date of filing and docket number of each such action; (5) a brief description or summary of the facts upon which each claim, charge or judgment rested including the date of occurrence; (6) the names and last known business and residential addresses of every person who acted as counsel for any party in the litigation or negotiations, along with an identification of the party whom said person represented; (7) the date and amount of final judgment or settlement; and (8) such other information as the agency to whom the reports are to be sent may, by regulation, require

(c) Every person named in such report, who is notified by the board within 60 days of the filing of the report, shall maintain for the period of three years from the filing of such report any records he has as to the matter in question and shall make those available upon request to the agency with which the report was filed

SEC. 1.02. Section 2100.6 of the Business and Professions Code, as added by Assembly Bill No. 1 of the 1975-76 Second Extraordinary Session, is amended to read:

2100.6. The Division of Medical Quality shall have responsibility for (a) reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board; (b) ~~deciding cases referred to it by the Medical Quality Review Committees the administration and hearing of disciplinary actions~~; (c) carrying out disciplinary action appropriate to findings made by a Medical Quality Review Committee, a hearing officer, or the division.

SEC. 1.035. Section 2101 of the Business and Professions Code, as amended by Assembly Bill No. 1 of the Second Extraordinary Session, is amended to read:

2101. Members of the board shall only be appointed from persons who have been citizens of this state for at least five years next preceding their appointment. Members of the board, except the public members, shall only be appointed from persons who hold licenses under this chapter or any preceding medical practice act of this state. ~~Physician members of the board shall be appointed from physicians who have served at least one term on a district review committee or a medical quality review committee.~~ Five of such licensee members shall be members of the faculty of a clinical department of an approved medical

school in the state. The public members shall not be liecutates of the board. No person who in any manner owns any interest in any college, school, or institution engaged in medical instruction shall be appointed to the board. Not more than four members of the board may be full-time members of the faculties of medical schools.

SEC. 1.037. Section 2101.7 is added to the Business and Professions Code, to read:

2101.7. The Governor may remove any member of the board for neglect of duty required by this chapter, incompetency, or unprofessional conduct.

SEC. 1.04. Section 2116 of the Business and Professions Code is amended to read:

2116. The board may prosecute all persons guilty of violating the provisions of this chapter.

It may employ *investigators, legal counsel, medical consultants, and any such clerical assistance* as it may deem necessary to carry into effect the provisions of this chapter. The board may fix the compensation to be paid for such service and may incur such other expenses as it may deem necessary.

The Attorney General shall act as the legal counsel for the board for any *administrative or judicial proceedings* and his services shall be a charge against it.

SEC. 1.05. Section 2123.1 of the Business and Professions Code, as added by Assembly Bill No. 1 of the 1975-76 Second Extraordinary Session, is amended to read:

2123.1. As used in this *article chapter* :

(a) "Board" means the Board of Medical Quality Assurance of the State of California.

(b) "Committee" means a medical quality review committee created by this article.

(c) "District" means a district established by Section 2123.2

(d) "Department" means the *Department of Consumer Affairs*.

SEC. 1.06. Section 2123.2 of the Business and Professions Code, as added by Assembly Bill No. 1 of the 1975-76 Second Extraordinary Session, is amended to read:

2123.2. The state is divided, for the purposes of this article, into the following 14 districts:

(a) The first district consists of the Counties of Del Norte, Siskiyou, Modoc, Humboldt, Trinity, Shasta, Lassen, Tehama, Plumas, Mendocino, Glenn, Butte, Lake, and Colusa.

(b) The second district consists of the Counties of Sierra, Yuba, Sutter, Yolo, Nevada, Placer, El Dorado, and Sacramento.

(c) The third district consists of the Counties of Sonoma, Napa, and Solano.

(d) The fourth district consists of the Counties of Marin, San Francisco, and San Mateo.

(e) The fifth district consists of the Counties of Contra Costa and Alameda.

(f) The sixth district consists of the Counties of Alpine, Amador, Calaveras, Tuolumne, San Joaquin, Stanislaus, and Merced.

- (g) The seventh district consists of the County of Santa Clara.
- (h) The eighth district consists of the Counties of *Santa Cruz*, San Benito, Monterey, and San Luis Obispo.
- (i) The ninth district consists of the Counties of Mariposa, Madera, Fresno, Kings, Tulare, and Kern.
- (j) The 10th district consists of the Counties of Santa Barbara and Ventura.
- (k) The 11th district consists of the County of Los Angeles.
- (l) The 12th district consists of the Counties of Mono, Inyo, San Bernardino, and Riverside.
- (m) The 13th district consists of the County of Orange
- (n) The 14th district consists of the Counties of San Diego and Imperial.

SEC. 1.07. Section 2123.3 of the Business and Professions Code, as added by Assembly Bill No. 1 of the 1975-76 Second Extraordinary Session, is amended to read:

2123.3. A medical quality review committee is hereby created for each of the districts established by Section 2123.2. Each committee shall be composed of persons appointed by the Governor from among residents of the district.

The medical quality review committees shall have the following composition:

(a) The first district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.

(b) The second district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be ~~nonphysicians~~ nonphysician licentiates of a healing arts board.

(c) The third district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.

(d) The fourth district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(e) The fifth district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(f) The sixth district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.

(g) The seventh district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(h) The eighth district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.

(i) The ninth district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(j) The 10th district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.

(k) The 11th district shall be composed of 20 members, 12 of whom shall hold valid physician's and surgeon's certificates, four of whom shall be public members, and four of whom shall be nonphysician licentiates of a healing arts board.

(l) The 12th district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(m) The 13th district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(n) The 14th district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

A medical quality review committee may, pursuant to regulations adopted by the Division of Medical Quality, establish panels of five committee members consisting of three physician members, one public member, and one member who is a licentiate of a healing arts board other than the Board of Medical Quality Assurance for the purposes of hearing and deciding cases before a committee. Five members shall constitute a quorum in order for a panel of a committee to conduct business. It shall require an affirmative vote of a majority of those present at a meeting of a panel, such majority constituting at least a majority of a minimum quorum for a panel to decide any case, ~~adopt any rule, pass any measure, or make any recommendation.~~ Where a medical quality review committee meets as a whole, a majority of the membership of the committee shall constitute a quorum to conduct business. It shall require an affirmative vote of a majority of those present at a meeting of a committee, such majority constituting at least a majority of a minimum quorum for a committee, to decide any case, ~~adopt any rule, pass any measure, or make any recommendation.~~

A finding or decision by a panel established under this section shall constitute a finding or decision by a committee.

SEC 108. Section 2123.9 of the Business and Professions Code, as added by Assembly Bill No. 1 of the 1975-76 Second Extraordinary Session, is amended to read:

2123.9. Except as otherwise provided in this article, all hearings shall be conducted by a committee or panel of a committee in accordance with the provisions of Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code

If a contested case is heard by a committee or panel of a committee, the hearing officer who presided at the hearing shall be present during the committee's consideration of the case and, ~~if requested,~~ shall ~~assist~~ ~~and~~ advise the committee or panel on matters of law.

SEC. 109. Section 2123.10 of the Business and Professions Code, as added by Assembly Bill No. 1 of the 1975-76 Second Extraordinary Session, is amended to read:

2123.10. Within 30 days of the conclusion of any hearing which is conducted by a committee or panel, the committee or panel shall render its decision. A decision by a committee or panel calling for the discipline of a licensee, or restricting or limiting the extent, scope, or type of practice of the certificate holder for a period of one year or less, or the suspension from practice of a licensee for 30 days or less, shall be final, except where the committee or panel orders reconsideration pursuant to Section 2124.1. Where a committee or panel renders a decision calling for suspension of a license for a period exceeding 30 days, or restriction or limitation on the extent, scope, or type of practice of the certificate holder for a period exceeding one year, or revocation of a license, the decision shall constitute a proposed decision to the Division of Medical Quality ~~of the board~~. *The proposed decision shall be subject to the same procedure as the proposed decision of a hearing officer under subdivisions (b) and (c) of Section 11517 of the Government Code. A final decision of a committee shall constitute the decision of the Division of Medical Quality.* No suspension for a period exceeding 30 days, or restriction or limitation on the extent, scope, or type of practice of the certificate holder for a period exceeding one year, or revocation of a license shall be carried out except upon order of the Division of Medical Quality.

The Division of Medical Quality shall act upon a proposed decision within 90 days of receiving such decision from a committee.

SEC. 110. Section 2124 of the Business and Professions Code, as added by Assembly Bill No. 1 of the 1975-76 Second Extraordinary Session, is amended to read:

2124. A medical quality review committee shall have the following authority and duties:

(a) To initiate reviews of the quality of medical care ~~practices and~~ ~~practiced by~~ certificate holders.

(b) To investigate all matters assigned to it by the Division of Medical Quality, and such other matters within the jurisdiction of a committee which it finds warrant action.

(c) To initiate investigations of complaints made by members of the public, and other certificate holders, a health care facility or a

division of the board that a certificate holder has been guilty of unprofessional conduct and to report to the complainant within 90 days of the receipt of the complaint by the committee as to the committee's findings and decision. All investigations made pursuant to this section shall be commenced immediately and completed within 90 days, with 30-day progress reports submitted to the Division of Medical Quality.

(d) To investigate the ~~standards~~ *circumstances* of practice of any physician and surgeon certificate holder which have resulted in any judgments or settlements requiring the certificate holder or insurer of the certificate holder to pay any amount in damages in excess of a cumulative total of thirty thousand dollars (\$30,000) with respect to any claim that injury or damage was proximately caused by the certificate holder's error, negligence, or omission.

(e) Investigations conducted pursuant to this section shall be commenced within 15 days and completed within three months. Where applicable, a progress report shall be issued to the complainants within 30 days of the initiation of the investigation. Once an investigation has been completed and grounds for disciplinary action are found by the Attorney General to exist, the Attorney General shall file an accusation with a committee within 30 days. A hearing shall be held by a committee or a panel of a committee within ~~30~~ 45 days of the filing of an accusation. ~~A decision shall be rendered by a committee or panel of a committee within 30 days after commencement of hearing.~~

(f) Where a review or investigation carried out pursuant to subdivision (a), (b), (c), or (d) of this section results in a likelihood or a finding of unprofessional conduct, to hold a hearing pursuant to Section 2123.8 to determine whether unprofessional conduct has occurred.

(f) Upon a finding of unprofessional conduct to take appropriate remedial or disciplinary action in relation to the certificate holder pursuant to Sections 2372, 2372.1, and 2372.5.

(g) Seek injunctions or restraining orders pursuant to Section 2436.

(h) *A committee or a panel of a committee which investigates a certificate holder pursuant to this section shall not be the committee or panel of a committee which hears any disciplinary matters resulting from that investigation.*

SEC. 1.11. Section 2124.2 of the Business and Professions Code, as added by Assembly Bill No. 1 of the 1975-76 Second Extraordinary Session, is amended to read:

2124.2. The Division of Medical Quality shall adopt, amend, or repeal, in accordance with the provisions of Chapter 4.5 (commencing with Section 11371), Part 1, Division 3, Title 2 of the Government Code, such regulations as may reasonably be necessary to enable medical quality review committees and panels to carry into effect the provisions of this article.

Failure to comply with the time limitations of Section 2123.10 or 2124 shall not invalidate any proceedings of the Division of Medical Quality, nor shall it affect the jurisdiction of the division to render a decision.

SEC. 1.12. Section 2124 45 of the Business and Professions Code, as added by Assembly Bill No. 1 of the 1975-76 Second Extraordinary Session, is amended to read.

2124 45 Any physician and surgeon may communicate to the committee or panel regarding any other physician and surgeon. Such communications shall remain confidential and shall not be admissible before any hearing or before any court except that the committee or panel may begin investigation on the basis of such communication and may use such communication to develop further information. Such communication, ~~except as provided in subdivision (e) of Section 800,~~ shall be admissible in a defamation action where it is alleged that communication is false and made with malice.

Upon a determination by the committee or panel that the communication is without merit, the central file shall be purged of information relating to the communication.

SEC 1 13. Section 2124 7 of the Business and Professions Code, as added by Assembly Bill No 1 of the 1975-76 Second Extraordinary Session, is amended to read:

2124.7. Each insurer shall, within 30 days of such termination, furnish the bureau with the names of all health care providers in this state whose malpractice liability insurance has been terminated. Any health facility that *limits or denies* a health care ~~provider~~ *provider's* privileges shall report such information to the bureau pursuant to Section 805. The bureau, upon the receipt of information submitted pursuant to this section, shall immediately transmit a copy of such information to the named health care provider and the appropriate committee.

SEC. 1 14. Section 2372 of the Business and Professions Code, as added by Assembly Bill No. 1 of the 1975-76 Second Extraordinary Session, is amended to read:

2372. The holder of a certificate whose default has been entered or who has been heard by a committee ~~or~~, panel, *or hearing officer thereof* and found guilty may:

(a) Have his certificate revoked upon order of the Division of Medical Quality upon recommendation of the committee ~~or~~, panel, *or hearing officer thereof*;

(b) Have his right to practice suspended for a period not to exceed one year upon order of the Division of Medical Quality upon recommendation of the committee ~~or~~, panel, *or hearing officer thereof*;

(c) Be placed on probation by the committee;

(d) Have such other action taken in relation to discipline as the committee ~~or~~, panel, *or hearing officer thereof* may deem proper.

SEC 1 15 Section 2372 5 of the Business and Professions Code, as amended by Assembly Bill No. 1 of the 1975-76 Second Extraordinary Session, is amended to read:

2372 5. The authority of ~~a committee~~ *the Division of Medical Quality, a committee, or a hearing officer thereof* to discipline the holder of a certificate by placing him on probation includes, but is not limited to, the following:

(a) Requiring the certificate holder to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral, or both, and may be a practical or clinical examination, or both, at the option of the ~~committee~~ *Division of Medical Quality, a committee, or a hearing officer thereof*.

(b) Requiring the certificate holder to submit to a complete diagnostic examination by one or more physicians and surgeons appointed by the ~~committee~~ *Division of Medical Quality, a committee, or a hearing officer thereof*. If the ~~committee~~ *Division of Medical Quality, a committee, or a hearing officer thereof* requires the certificate holders to submit to such an examination, the committee shall receive and consider any other report of a complete diagnostic examination given by one or more physicians of the certificate holder's choice.

(c) Restricting or limiting the extent, scope, or type of practice of the certificate holder.

SEC. 1.16. Section 2454 of the Business and Professions Code, as amended by Assembly Bill No. 1 of the 1975-76 Second Extraordinary Session, is amended to read:

2454. The receipts of the initial license fees and renewal fees collected by the Board of Medical Quality Assurance from persons licensed under this chapter shall be paid into the Contingent Fund of the Board of Medical Examiners of California which is continued in existence as the *contingent fund of the Board of Medical Quality Assurance*, and shall be used to carry out the provisions of this chapter relating to the compilation, publication, and sale of a directory.

If there is any surplus in these receipts after the expenses of issuing the directories have been paid, such surplus shall be applied solely to expenses incurred under the provisions of this chapter. No surplus in these receipts shall be deposited in or transferred to the General Fund.

SEC. 1.17. Section 2456 of the Business and Professions Code, as amended by Assembly Bill No. 1 of the 1975-76 Second Extraordinary Session, is amended to read:

2456. All fees earned by the board and all fines and forfeitures of bail to which the board is entitled shall be reported at the beginning of each month, for the month preceding, to the State Controller. At the same time the entire amount of these collections shall be paid into the State Treasury and shall be credited to the contingent fund of the Board of Medical Examiners *Quality Assurance*.

This contingent fund shall be for the uses of the board and out of it shall be paid all salaries and all other expenses necessarily incurred in carrying into effect the provisions of this chapter. Any surplus accumulating in such contingent fund shall remain in such fund and shall not be transferred to the General Fund.

SEC. 1.175. Section 2458 of the Business and Professions Code, as amended by A.B. 1 of the 1975-76 Second Extraordinary Session, is amended to read:

2458. The amount of fees and refunds prescribed by this chapter in connection with physicians and surgeons certificates, certificates to practice podiatry, certificates to practice midwifery, and certificates of drugless practitioners is that fixed by the following schedule:

(a) The fee for each applicant for a certificate by written examination, unless otherwise provided in this chapter, shall be fixed annually by the board at an amount not to exceed one hundred dollars (\$100) nor less than fifteen dollars (\$15). If the applicant's credentials are insufficient or if he does not desire to take the examination, the sum of ten dollars (\$10) shall be retained and the remainder of the fee is returnable on application.

(b) Each applicant for a certificate based upon a national board diplomate certificate, and each applicant for a reciprocity certificate, shall pay an application fee in the sum of ten dollars (\$10) at the time his application is filed. If the applicant qualifies for a certificate, he shall be notified and, in addition to the initial license fee, shall pay a fee which shall be fixed annually by the board at a sum not in excess of one hundred dollars (\$100) nor less than five dollars (\$5) for the issuance of the certificate.

(c) Each applicant for a certificate under Article 6 shall pay an application fee in the sum of ten dollars (\$10) at the time his application is filed. If the applicant qualifies for a certificate, he shall be notified and, in addition to the initial license fee, shall pay a fee which shall be fixed annually by the board at a sum not in excess of forty dollars (\$40) nor less than five dollars (\$5) for the issuance of the certificate.

(d) The renewal fee shall be fixed by the board at a sum not in excess of one hundred *fifty* dollars ~~(\$100)~~ (\$150).

(e) The delinquency fee is ten dollars (\$10).

(f) The duplicate certificate fee is two dollars (\$2).

(g) The endorsement fee is five dollars (\$5).

(h) The fee for issuance of a duplicate certificate upon a change of name authorized by law of a person holding a certificate under this chapter shall be two dollars (\$2).

(i) The initial license fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the license is issued, except that if the license will expire less than one year after its issuance, then the initial license fee is an amount equal to fifty percent (50%) of the renewal fee in effect on the last regular renewal date before the date on which the license is issued.

SEC 118. Section 2601 5 is added to the Business and Professions Code, to read:

2601 5. Notwithstanding any other provision of law, the term "board" or "Board of Medical Examiners" as used in this chapter shall mean the Division of Allied Health Professions of the Board of Medical Quality Assurance.

SEC. 1.185. Section 6146 of the Business and Professions Code as added by A B 1 of the 1975-76 Second Extraordinary Session, is amended to read:

6146 (a) An attorney shall not contract for or collect a contingency fee for representing any person seeking damages in connection with an action for injury or damage against a health care provider based upon such person's alleged professional negligence in excess of the following limits:

(1) Forty percent of the first fifty thousand dollars (\$50,000) recovered.

(2) Thirty-three and one-third percent of the next fifty thousand dollars (\$50,000) recovered.

(3) Twenty-five percent of the next one hundred thousand dollars (\$100,000) recovered.

(4) Ten percent of any amount on which the recovery exceeds two hundred thousand dollars (\$200,000).

Such limitations shall apply regardless of whether the recovery is by settlement, arbitration, or judgment, or whether the person for whom the recovery is made is a responsible adult, an infant, or a person of unsound mind.

(b) If periodic payments are awarded to the plaintiff pursuant to Section 667.7 of the Code of Civil Procedure, the court shall place a total value on these payments based upon the projected life expectancy of the plaintiff and include this amount in computing the total award from which attorneys' fees are calculated under this section.

(c) The Board of Governors of the State Bar of California shall report and make recommendations to the Legislature by July 1, 1976, on an equitable method for regulating compensation of defense counsel consistent with the policies embodied in this article regarding regulation of plaintiff's attorney's fees.

(d) For purposes of this section:

(1) "Recovered" means the net sum recovered after deducting any disbursements or costs incurred in connection with prosecution or settlement of the claim. Costs of medical care incurred by the plaintiff and the attorney's office-overhead costs or charges shall not be deductible disbursements or costs for such purpose;

(2) "Health care provider" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or licensed pursuant to Chapter 25 (commencing with Section 1440) of Division 2 of the Health and Safety Code; and any clinic, health dispensary, or health facility, licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code. "Health care provider" includes the legal representatives of a health care provider;

(3) "Professional negligence" means an action for personal injury or wrongful death proximately caused by a health care provider's negligent act or omission to act in the rendering of professional services, providing that such services are within the scope of services for which licensed and are not within any restriction imposed by the licensing agency or any licensed hospital.

(3) "Professional negligence" is a negligent act or omission to act by a health care provider in the rendering of professional services, which act or omission is the proximate cause of a personal injury or wrongful death, provided that such services are within the scope of services for which the provider is licensed and which are not within any restriction imposed by the licensing agency or licensed hospital.

SEC. 1.19. Section 3333 1 of the Civil Code, as added by Assembly Bill No 1 of the 1975-76 Second Extraordinary Session, is amended to read:

3333 1 (a) In the event the defendant so elects, in an action for personal injury against a health care provider based upon professional negligence, he may introduce evidence of any amount payable as a benefit to the plaintiff as a result of the personal injury pursuant to the United States Social Security Act, any state or federal income disability or worker's compensation act, any health, sickness or income-disability insurance, accident insurance that provides health benefits or income-disability coverage, and any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or other health care services. Where the defendant elects to introduce such evidence, the plaintiff may introduce evidence of any amount which the plaintiff has paid or contributed to secure his right to any insurance benefits concerning which the defendant has introduced evidence

(b) *Where evidence has been introduced of any amount payable to the plaintiff by a collateral source of indemnity described in subdivision (a), it shall be conclusively presumed that any damages awarded the plaintiff were offset by such amounts and the judgment reduced thereby. No collateral source of indemnity described in subdivision (a) shall recover any amount against the plaintiff nor shall it be subrogated to the rights of the plaintiff against a defendant*

(b) ~~Unless otherwise expressly provided by statute, a collateral source of indemnity described in subdivision (a) shall not be subrogated to the rights of the plaintiff against a defendant~~

(c) For the purposes of this section:

(1) "Health care provider" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or licensed pursuant to Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code; and any clinic, health dispensary, or health facility, licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code "Health care provider" includes the legal representatives of a health care provider,

(2) "Professional negligence" means *a negligent act or omission to act by a health care provider in the rendering of professional services, which act or omission is the proximate cause of a personal injury or wrongful death, provided that such services are within the scope of services for which the provider is licensed and which are not within any restriction imposed by the licensing agency or licensed hospital in an action for personal injury or wrongful death proximately caused by a health care provider's negligent act or omission to act in the rendering of professional services, providing that such services are within the scope of services for which licensed and are not within any restriction imposed by the licensing agency or any licensed hospital.*

SEC. 1.191. Section 3333.2 of the Civil Code, as added by Assembly Bill No. 1 of the 1975-76 Second Extraordinary Session is amended to read:

3333.2. (a) In any action for injury against a health care provider based on professional negligence, the injured plaintiff shall be entitled to recover noneconomic losses to compensate for pain, suffering, inconvenience, physical impairment, disfigurement and other nonpecuniary damage.

(b) In no action shall the amount of damages for noneconomic losses exceed two hundred fifty thousand dollars (\$250,000).

(c) For the purposes of this section:

(1) "Health care provider" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or licensed pursuant to Chapter 25 (commencing with Section 1440) of Division 2 of the Health and Safety Code; and any clinic, health dispensary, or health facility, licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code "Health care provider" includes the legal representatives of a health care provider;

(2) "Professional negligence" means a negligent act or omission to act by a health care provider in the rendering of professional services, which act or omission is the proximate cause of a personal injury or wrongful death, provided that such services are within the scope of services for which the provider is licensed and which are not within any restriction imposed by the licensing agency or licensed hospital

SEC. 1.192 Section 340.5 of the Code of Civil Procedure, as amended by A.B. 1 of the 1975-76 Second Extraordinary Session, is amended to read:

340.5. In an action for injury or death against a health care provider based upon such person's alleged professional negligence, the time for the commencement of action shall be three years after the date of injury or one year after the plaintiff discovers, or through the use of reasonable diligence should have discovered, the injury, whichever occurs first. In no event shall the time for commencement of legal action exceed three years unless tolled for any of the following:

(1) upon proof of fraud, (2) intentional concealment, or (3) the presence of a foreign body, which has no therapeutic or diagnostic purpose or effect, in the person of the injured person. Actions by a minor shall be commenced within three years from the date of the alleged wrongful act except that actions by a minor under the full age of six years shall be commenced within three years or prior to his eighth birthday whichever provides a longer period. Such time limitation shall be tolled for minors for any period during which parent or guardian and defendant's insurer or health care provider have committed fraud or collusion in the failure to bring an action on behalf of the injured minor for professional negligence.

For the purposes of this section:

(1) "Health care provider" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or licensed pursuant to Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code; and any clinic, health dispensary, or health facility, licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code. "Health care provider" includes the legal representatives of a health care provider;

(2) "Professional negligence" means a negligent act or omission to act by a health care provider in the rendering of professional services, which act or omission is the proximate cause of a personal injury or wrongful death, provided that such services are within the scope of services for which the provider is licensed and which are not within any restriction imposed by the licensing agency or licensed hospital.

SEC. 1.193. Section 364 of the Code of Civil Procedure as added by A.B. 1 of the Second Extraordinary Session, is amended to read:

364. (a) No action based upon the health care provider's professional negligence may be commenced unless the defendant has been given at least 90 days' prior notice of the intention to commence the action.

(b) No particular form of notice is required, but it shall notify the defendant of the legal basis of the claim and the type of loss sustained, including with specificity the nature of the injuries suffered.

(c) The notice may be served in the manner prescribed in Chapter 5 (commencing with Section 1010) of Title 14 of Part 2.

(d) If the notice is served within 90 days of the expiration of the applicable statute of limitations, the time for the commencement of the action shall be extended 90 days from the service of the notice.

(e) The provisions of this section shall not be applicable with respect to any defendant whose name is unknown to the plaintiff at the time of filing the complaint and who is identified therein by a fictitious name, as provided in Section 474.

(f) For the purposes of this section:

(1) "Health care provider" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or licensed pursuant to Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code; and any clinic, health dispensary, or health facility, licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code. "Health care provider" includes the legal representatives of a health care provider;

(2) "Professional negligence" means negligent act or omission to act by a health care provider in the rendering of professional services, which act or omission is the proximate cause of a personal injury or wrongful death, provided that such services are within the scope of services for which the provider is licensed and which are not within any restriction imposed by the licensing agency or licensed hospital.

365. Failure to comply with this chapter shall not invalidate any proceedings of any court of this state, nor shall it affect the jurisdiction of the court to render a judgment therein. However, failure to comply with such provisions by any attorney at law shall be grounds for professional discipline and the State Bar of California shall investigate and take appropriate action in any such cases brought to its attention.

SEC 1194. Section 667.7 of the Code of Civil Procedure, as added by A B 1 of the 1975-76 Second Extraordinary Session is amended to read:

667.7. (a) In any action for injury or damages against a provider of health care services, a superior court shall, at the request of either party, enter a judgment ordering that money damages or its equivalent for future damages of the judgment creditor be paid in whole or in part by periodic payments rather than by a lump-sum payment if the award equals or exceeds fifty thousand dollars (\$50,000) in future damages. In entering a judgment ordering the payment of future damages by periodic payments, the court shall make a specific finding as to the dollar amount of periodic payments which will compensate the judgment creditor for such future damages. As a condition to authorizing periodic payments of future damages, the court shall require the judgment debtor who is not adequately insured to post security adequate to assure full payment of such damages awarded by the judgment. Upon termination of periodic payments of future damages, the court shall order the return of this security, or so much as remains, to the judgment debtor.

(b) (1) The judgment ordering the payment of future damages by periodic payments shall specify the recipient or recipients of the payments, the dollar amount of the payments, the interval between payments, and the number of payments or the period of time over which payments shall be made. Such payments shall only be subject to modification in the event of the death of the judgment creditor.

(2) In the event that the court finds that the judgment debtor has exhibited a continuing pattern of failing to make the payments, as specified in paragraph (1), the court shall find the judgment debtor in contempt of court and, in addition to the required periodic payments, shall order the judgment debtor to pay the judgment creditor all damages caused by the failure to make such periodic payments, including court costs and attorney's fees.

(c) However, money damages awarded for loss of future earnings shall not be reduced or payments terminated by reason of the death of the judgment creditor, but shall be paid to persons to whom the judgment creditor owed a duty of support, as provided by law, immediately prior to his death. In such cases the court which rendered the original judgment, may, upon petition of any party in interest, modify the judgment to award and apportion the unpaid future damages in accordance with this subdivision.

(d) Following the occurrence or expiration of all obligations specified in the periodic payment judgment, any obligation of the judgment debtor to make further payments shall cease and any security given, pursuant to subdivision (a) shall revert to the judgment debtor.

(e) As used in this section:

(1) "Future damages" includes damages for future medical treatment, care or custody, loss of future earnings, loss of bodily function, or future pain and suffering of the judgment creditor.

(2) "Periodic payments" means the payment of money or delivery of other property to the judgment creditor at regular intervals

(3) "Health care provider" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or licensed pursuant to Chapter 25 (commencing with Section 1440) of Division 2 of the Health and Safety Code; and any clinic, health dispensary, or health facility, licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code "Health care provider" includes the legal representatives of a health care provider.

(4) "Professional negligence" means ~~an action for personal injury or wrongful death proximately caused by a health care provider's negligent act or omission to act in the rendering of professional services, providing that such services are within the scope of services for which licensed and are not within any restriction imposed by the licensing agency or any licensed hospital~~ a negligent act or omission to act by a health care provider in the rendering of professional services, which act or omission is the proximate cause of a personal injury or wrongful death, provided that such services are within the scope of services for which the provider is licensed and which are not within any restriction imposed by the licensing agency or licensed hospital

(f) It is the intent of the Legislature in enacting this section to authorize the entry of judgments in malpractice actions against health care providers which provide for the payment of future damages through periodic payments rather than lump-sum payments. By authorizing periodic payment judgments, it is the further intent of the Legislature that the courts will utilize such judgments to provide compensation sufficient to meet the needs of an injured plaintiff and those persons who are dependent on the plaintiff for whatever period is necessary while eliminating the potential windfall from a lump-sum recovery which was intended to provide for the care of an injured plaintiff over an extended period who then dies shortly after the judgment is paid, leaving the balance of the judgment award to persons and purposes for which it was not intended. It is also the intent of the Legislature that all elements of the periodic payment program be specified with certainty in the judgment ordering such payments and that the judgment not be subject to modification at some future time which might alter the specifications of the original judgment

SEC. 1195. Section 1295 of the Code of Civil Procedure as added by Assembly Bill No. 1 of the 1975-76 Second Extraordinary Session is amended to read:

1295 (a) Any contract for medical services which contains a provision for arbitration of any dispute as to professional negligence of a health care provider shall have such provision as the first article of the contract and shall be expressed in the following language: "It is

understood that any dispute as to medical malpractice, that is as to whether any medical services rendered under this contract were unnecessary or unauthorized or were improperly, negligently or incompetently rendered, will be determined by submission to arbitration as provided by California law, and not by a lawsuit or resort to court process except as California law provides for judicial review of arbitration proceedings. Both parties to this contract, by entering into it, are giving up their constitutional right to have any such dispute decided in a court of law before a jury, and instead are accepting the use of arbitration."

(b) Immediately before the signature line provided for the individual contracting for the medical services must appear the following in at least 10-point bold red type:

"NOTICE BY SIGNING THIS CONTRACT YOU ARE AGREEING TO HAVE ANY ISSUE OF MEDICAL MALPRACTICE DECIDED BY NEUTRAL ARBITRATION AND YOU ARE GIVING UP YOUR RIGHT TO A JURY OR COURT TRIAL. SEE ARTICLE 1 OF THIS CONTRACT."

(c) Once signed, such a contract governs all subsequent open-book account transactions for medical services for which the contract was signed until or unless rescinded by written notice within 30 days of signature. Written notice of such rescission may be given by a guardian or conservator of the patient if the patient is incapacitated or a minor.

(d) Where the contract is one for medical services to a minor, it shall not be subject to disaffirmance if signed by the minor's parent or legal guardian.

(e) Such a contract is not a contract of adhesion, nor unconscionable nor otherwise improper, where it complies with subdivisions (a), (b) and (c) of this section.

(f) Subdivision (a) (b) and (c) shall not apply to any health care service plan contract offered by an organization registered pursuant to Article 25 (commencing with Section 12530), of Division 3 of Title 2 of the Government Code, which has been negotiated to contain an arbitration agreement with subscribers and enrollees under such contract.

(g) For the purposes of this section:

(1) "Health care provider" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or licensed pursuant to Chapter 25 (commencing with Section 1410) of Division 2 of the Health and Safety Code; and any clinic, health dispensary, or health facility, licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code. "Health care provider" includes the legal representatives of a health care provider;

(2) "Professional negligence" means a negligent act or omission to act by a health care provider in the rendering of professional services, which act or omission is the proximate cause of a personal injury or wrongful death, provided that such services are within the scope of services for which the provider is licensed and which are not within any restriction imposed by the licensing agency or licensed hospital.

SEC. 1.50. Section 440 of the Insurance Code is".

Amendment 5

On page 3, between lines 7 and 8, insert
 "SEC 151 Section 11588 of the Insurance Code, as added by
 Assembly Bill No. 1 of the 1975-76 Second Extraordinary Session is
 amended to read:

11588. No insurer authorized to do business in this state and to
 provide professional liability insurance to persons lawfully engaged in
 the practice of medicine or osteopathy, health plans and to partner-
 ships or corporations lawfully engaged in the operation of hospitals,
 sanitariums, clinics or other health care facilities shall refuse to issue
 or renew insurance *at rates which are not excessive or unfairly dis-*
criminatory as defined in Section 700-03 1852 to such persons partner-
 ships or corporations, *solely* on the grounds that such persons partner-
 ships or corporations have entered or intend to enter into valid written
 agreements with patients or prospective patients for the arbitration of
 cases or controversies arising out of the professional or business rela-
 tionships between such persons, partnerships or corporations and said
 patients."

Amendment 6

On page 3, line 8, strike out "SEC 15", and insert
 "SEC 1.60".

Amendment 7

On page 11, line 16, strike out "SEC 3", and insert
 "SEC 12".

Amendment 7.5

On page 11, line 19, after "to", insert "Section 150 and Sections
 160 to 11, inclusive of".

Amendment 8

On page 11, after line 22, insert
 "SEC 12.5 Section 1 of Assembly Bill No 1 of the 1975-76
 Second Extraordinary Session is amended to read:

Section 1. (a) This act shall be known and may be cited as the
 Medical Injury Compensation Reform Act

(b) The Legislature finds and declares that there is a major health
 care crisis in the State of California attributable to skyrocketing mal-
 practice premium costs and resulting in a potential breakdown of the
 health delivery system, severe hardships for the medically indigent, a
 denial of access for the economically marginal and depletion of physi-
 cians such as to substantially worsen the quality of health care available
 to citizens of this state The Legislature, acting within the scope of
 its police powers, finds the statutory remedy herein provided is intended
 to provide an adequate and reasonable remedy within the limits of
 what the foregoing public health and safety considerations permit now
 and into the foreseeable future

SEC 13 Sections 1 to 1195, inclusive, and Sections 151, 125 and
 126 shall become operative only if Assembly Bill No 1 of the 1975-76
 Second Extraordinary Session becomes effective, and such sections
 shall become operative on the effective date of Assembly Bill No. 1 of
 the Second Extraordinary Session.

SEC 14. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable."

Set No. 2

Amendment 1

On page 3, line 19, of the printed bill, as amended in Senate September 5, 1975, strike out "licensed physician", and insert "licensee".

Amendment 2

On page 6, between lines 6 and 7, insert "one hundred thousand dollars (\$100,000) for each claimant under one policy, and three hundred thousand dollars (\$300,000) for all claimants under one policy in any one year; or,".

Set No. 3

Amendment 1

On page 4, line 17, of the printed bill, as amended in Senate September 5, 1975, strike out "county", and insert "region".

Amendment 2

On page 4, line 19, strike out "county", and insert "region".

Amendments 3 and 4

On page 4, line 22, strike out "operating"; strike out line 23, and in line 24, strike out "through the association", and insert "in any geographic region defined by him".

Amendment 5

On page 4, line 26, strike out "county", and insert "region".

Amendment 6

On page 4, line 33, strike out "county", and insert "region".

Amendment 7

On page 4, line 38, strike out "comsureds", and insert "additional insureds".

Amendment 8

On page 5, strike out lines 1 to 23, inclusive, and insert "(1) any insurer from issuing or renewing any policy of medical malpractice insurance in this state, provided, however, that upon a determination by the commissioner, after public hearing, that substantial adverse selection within any geographical region designated by him against the association has, or will likely, result, the commissioner may issue an order to insurers operating in such region that no original policies shall thereafter be issued or that renewal policies shall be issued only if the insurer will offer such insurance to a representative sample of rating classifications, or both. Each insurer issuing or renewing policies within the region specified in such order shall submit to the commissioner, on

a quarterly basis, the number of its insureds in each of its rating classifications in such region, together with such other information as the commissioner may require. Such data shall be provided in such manner and within such times as the commissioner shall establish. The commissioner shall, within 30 days after receipt thereof, make a determination as to the compliance with this subdivision by the filer. The commissioner shall be entitled to inspect at any time a list of each insurer's insureds, grouped according to their rating classifications, or (2) any insurer from issuing or renewing any policy of medical malpractice insurance to any physician and surgeon who specializes in psychiatric medicine."

Amendment 9

On page 7, line 25, strike out "No", and insert "Except as otherwise provided in this chapter, no".

Amendment 10

On page 7, line 39, strike out "period", and insert "same period covered by".

Amendment 11

On page 7, line 40, strike out "was in effect".

Amendment 12

On page 8, strike out lines 30 to 33, inclusive, and in line 34, strike out "for the rider", and insert "on a quarterly basis for a period not to exceed two years".

Amendment 13

On page 8, line 35, after the period, insert "Any policyholder electing to pay for the occurrence rider on a deferred payment basis may be assessed a finance charge of not to exceed 6 percent per annum on the unpaid balance."

Amendment 14

On page 9, line 9, strike out "The", and insert "Except as provided to the contrary herein, and notwithstanding the provisions of Section 1860.2, the".

Amendment 15

On page 9, strike out line 23, and insert "established by the association. In determining whether the association's rates are in compliance with Chapter 9 (commencing with Section 1850) of Part 2 of Division 1, the commissioner shall consider recommendations made by a panel".

Amendment 16

On page 9, lines 28 and 29, strike out "California Medical Association", and insert "Governor from a list of names submitted by the state's professional medical societies".

Amendment 17

On page 9, strike out lines 33 and 34, and in line 35, strike out "Session", and insert "after the submission of such rates by the association".

Amendment 18

On page 9, lines 35 and 36, strike out "the rates shall be recommended", and insert "the panel shall file its rate recommendations with the commissioner. Thereafter, the panel shall conduct public hearings and make recommendations when requested by the commissioner. Any dissenting panel member may submit minority recommendations"

Bill ordered reprinted, and to be re-referred to the Committee on Ways and Means.

ADJOURNMENT

At 8 p m, Speaker McCarthy declared the Assembly adjourned until 9:30 a m., Thursday, September 11, 1975.

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNAL

FIFTY-FIFTH LEGISLATIVE DAY
ONE HUNDRED SIXTEENTH CALENDAR DAY

IN ASSEMBLY

Assembly Chamber, Sacramento
Thursday, September 11, 1975

The Assembly met at 6:55 p m

Hon. John F. Foran, Member of the Assembly, 23rd District, presiding.

Chief Clerk James D Driscoll at the Desk.

Assistant Clerk Ray Monday reading.

ROLL CALL

The roll was called, and the following answered to their names—79:

Alatorre	Collier	Keyser	Perno
Antonovich	Craven	Knox	Priolo
Arnett	Cullen	Lancaster	Ralph
Badham	Davis	Lanterman	Robinson
Banc	Deddeh	Lewis	Rosenthal
Bannai	Dixon	Lockyer	Siegler
Berman	Duffy	MacDonald	Sieroty
Beverly	Egelund	Maddy	Sutt
Boatwright	Fenton	McAlister	Thomas, Vincent
Briggs	Foran	McLennan	Thomas, William
Brown	Garamendi	McVittie	Thurman
Burke	Goggin	Meade	Torres
Calvo	Greene	Miller	Tucker
Campbell	Gualco	Mobley	Vasconcellos
Carpenter	Hart	Montoya	Vicencia
Chacon	Hayden	Mori	Warren
Chappie	Hughes	Murphy	Wilson
Chel	Ingalls	Nestande	Wornum
Chumbole	Kapiloff	Nimmo	Mr. Speaker
Cline	Keene	Papan	

Quorum present.

PRAYER

The following prayer was offered by the Chaplain, Father Leo McAllister:

O Great Spirit, Whose voice I hear in the winds, and whose breath gives life to all the world, hear me! I am small and weak; I need Your strength and wisdom. Let me walk in beauty, and make my eyes ever behold the red and purple sunset. Make my hands respect the things You have made and my ears sharp to hear Your voice. Make me wise so that I may understand the things You have taught my people. Let me learn the lessons You have hidden in every leaf and rock. I seek strength, not to be greater than my brother, but to fight my greatest enemy—myself. Make me always ready to come to You with clean hands and straight eyes. So when life fades, as the fading sunset, may my spirit come to You without shame.

American Indian Prayer

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Acting Speaker Foran, Mr. Maddy then led the Assembly in the pledge of allegiance to the Flag.

MOTION TO DISPENSE WITH READING OF THE JOURNAL

Further reading of the Journal of the previous legislative day was dispensed with on motion of Mr. Bannai, seconded by Mr. Hayden.

COMMUNICATIONS

Assembly Chamber, September 11, 1975

Mr. Speaker: Pursuant to your instructions the Chief Clerk has examined

Assembly Bill No. 1—An act to amend Sections 125.5, 2100, 2101, 2116, 2119, 2361, 2361.5, 2362, 2364, 2372.5, 2436, 2454, 2456 and 2478 of to add Sections 2100.2, 2100.5, 2100.6, 2100.7, 2100.8, 2101.5, 2101.6, 2122, 2372, and 2372.1 to, to add Article 11 (commencing with Section 800) to Chapter 1 of Division 2 of, to add Article 23 (commencing with Section 2123) and Article 24 (commencing with Section 2124.5) to Chapter 5 of Division 2 of, to add Article 8.5 (commencing with Section 6146) to Chapter 4 of Division 3 of, to repeal Section 2372 of, to repeal Article 11 (commencing with Section 800) of Chapter 1 of Division 2 of, and to repeal Article 23 (commencing with Section 2123) of Chapter 5 of Division 2 of the Business and Professions Code, to amend Section 438 of and to add Sections 3333.1, and 3333.2 to the Civil Code, to amend Sections 3405 and 10045 of, to add Sections 667.7 and 674.7 to, and to add Chapter 5 (commencing with Section 364) to Title 2 of Part 2 of, and to add Title 9.1 (commencing with Section 1295) to Part 3 of, the Code of Civil Procedure, and to add Sections 11587 and 11588 to, the Insurance Code, relating to health, and making an appropriation therefor,

And reports the same correctly enrolled, and presented to the Governor at 6 p. m., September 11, 1975.

JAMES D. DRISCOLL, Chief Clerk

JOINT RULE 62(a) WAIVED

Mr. Keene was granted unanimous consent that Joint Rule 62(a) be waived for the purpose of setting Senate Bill No. 24 for hearing in the Committee on Finance, Insurance, and Commerce.

BILLS PASSED ON FILE AND PLACED UPON THE INACTIVE FILE

Assembly Bill No. 4—Passed on file, and placed upon the inactive file pursuant to the Assembly Rules.

AUTHOR'S AMENDMENTS
Committee on Ways and Means

Assembly Chamber, September 11, 1975

Mr Speaker: The Chairman of your Committee on Ways and Means reports:
Senate Bill No 24

With author's amendments with the recommendation Amend, and re-fer to the
Committee on Ways and Means.

FORAN, Chairman

Senate Bill No. 24—An act to amend Sections 4040, 11890, 11895, 11896, 11897, 11898, 11900, 11902, 11902 2, 11903, and 11904 of the Insurance Code, relating to medical malpractice insurance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately

Bill read second time.

Consideration of Author's Amendments

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted:

Set No. 1

Amendment 1

In line 1 of the title of the printed bill, as amended in Assembly September 10, 1975, after "Sections", insert "160,".

Amendment 2

In line 6 of the title, strike out "667", and insert "667 7".

Amendment 3

In line 7 of the title, strike out "and", and insert a comma.

Amendment 4

In line 9 of the title, after the comma, insert "and to amend Section 830 3 of the Penal Code,".

Amendment 5

On page 3, strike out line 2, and insert

"SECTION 1. Section 160 of the Business and Professions Code is amended to read:

160 The Chief and all investigators of the Division of Investigation of the department *and all investigators of the Board of Medical Quality Assurance* have the authority of peace officers while engaged in exercising the powers granted or performing the duties imposed upon them or the division in investigating the laws administered by the various boards comprising the department or commencing directly or indirectly any criminal prosecution arising from any investigation conducted under these laws. All persons herein referred to shall be deemed to be acting within the scope of employment with respect to all acts and matters in this section set forth

SEC. 1005 Section 800 of the Business and"

Amendment 6

On page 25, strike out lines 7 to 14, inclusive.

Amendment 7

On page 29, between lines 33 and 34, insert

"SEC 1196. Section 1295 of the Code of Civil Procedure, as added by Assembly Bill No. 1 of the 1975-76 Second Extraordinary Session, is amended to read:

1295 (a) Any contract for medical services which contains a provision for arbitration of any dispute as to professional negligence of a health care provider shall have such provision as the first article of the contract and shall be expressed in the following language "It is understood that any dispute as to medical malpractice, that is as to whether any medical services rendered under this contract were unnecessary or unauthorized or were improperly, negligently or incompetently rendered, will be determined by submission to arbitration as provided by California law, and not by a lawsuit or resort to court process except as California law provides for judicial review of arbitration proceedings. Both parties to this contract, by entering into it, are giving up their constitutional right to have any such dispute decided in a court of law before a jury, and instead are accepting the use of arbitration."

(b) Immediately before the signature line provided for the individual contracting for the medical services must appear the following in at least 10-point bold red type:

"NOTICE BY SIGNING THIS CONTRACT YOU ARE AGREEING TO HAVE ANY ISSUE OF MEDICAL MALPRACTICE DECIDED BY NEUTRAL ARBITRATION AND YOU ARE GIVING UP YOUR RIGHT TO A JURY OR COURT TRIAL. SEE ARTICLE 1 OF THIS CONTRACT"

(c) Once signed, such a contract governs all subsequent open-book account transactions for medical services for which the contract was signed until or unless rescinded by written notice within 30 days of signature. Written notice of such rescission may be given by a guardian or conservator of the patient if the patient is incapacitated or a minor.

(d) Where the contract is one for medical services to a minor, it shall not be subject to disaffirmance if signed by the minor's parent or legal guardian.

(e) Such a contract is not a contract of adhesion, nor unconscionable nor otherwise improper, where it complies with subdivisions (a), (b) and (c) of this section.

(f) Subdivision (a) (b) and (c) shall not apply to any health care ~~Article 2-5 (commencing with Section 12530), of Division 2 of Title 2 of the Government Code Chapter 2.2 (commencing with Section 1340)~~ service plan contract offered by an organization registered pursuant to to contain an arbitration agreement with subscribers and enrollees of *Division 2 of the Health and Safety Code*, which has been negotiated under such contract.

(g) For the purposes of this section:

(1) "Health care provider" means any person licensed or certified pursuant to *Division 2 (commencing with Section 500) of the Business and Professions Code*, or licensed pursuant to the *Osteopathic Initiative Act*, or the *Chiropractic Initiative Act*, or licensed pursuant to

Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code; and any clinic, health dispensary, or health facility, licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code. "Health care provider" includes the legal representatives of a health care provider;

(2) "Professional negligence" means a negligent act or omission to act by a health care provider in the rendering of professional services, which act or omission is the proximate cause of a personal injury or wrongful death, provided that such services are within the scope of services for which the provider is licensed and which are not within any restriction imposed by the licensing agency or licensed hospital

SEC. 1.197. Section 1.196 shall become operative only if both Assembly Bill No. 1 of the 1975-76 Second Extraordinary Session and Assembly Bill No. 138 of the 1975-76 Regular Session become effective, in which case, Section 1.196 shall become operative when both Assembly Bill No. 1 of the 1975-76 Second Extraordinary Session and Assembly Bill No. 138 of the 1975-76 Regular Session become operative and at that time, Section 1.195 shall no longer have any force or effect."

Amendment 8

On page 39, between lines 11 and 12, insert

"SEC 10 5. Section 830 3 of the Penal Code is amended to read .

830.3 (a) The Deputy Director, Assistant Directors, chiefs, assistant chiefs, special agents, and narcotics agents of the Department of Justice, and such investigators who are so designated by the Attorney General, are peace officers.

The authority of any such peace officer extends to any place in the state as to a public offense committed or which there is probable cause to believe has been committed within the state

(b) Any inspector or investigator regularly employed and paid as such in the office of a district attorney is a peace officer

The authority of any such peace officer extends to any place in the state:

(1) As to any public offense committed, or which there is probable cause to believe has been committed, within the county which employs him; or

(2) Where he has the prior consent of the chief of police, or person authorized by him to give such consent, if the place is within a city or of the sheriff, or person authorized by him to give such consent, if the place is within a county; or

(3) As to any public offense committed or which there is probable cause to believe has been committed in his presence, and with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of such offense

(c) The Director of the Department of Alcoholic Beverage Control and persons employed by such department for the enforcement of the provisions of Division 9 (commencing with Section 23000) of the Business and Professions Code are peace officers, provided, that the primary duty of any such peace officer shall be the enforcement of the laws relat-

ing to alcoholic beverages, as that duty is set forth in Section 25755 of the Business and Professions Code. Any such peace officer is further authorized to enforce any penal provision of law while, in the course of his employment, he is in, on, or about any premises licensed pursuant to the Alcoholic Beverage Control Act.

(d) The Chief and investigators of the Division of Investigation of the Department of Consumer Affairs, and investigators of the Board of Medical Quality Assurance, are peace officers; provided, that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 160 of the Business and Professions Code.

(e) Members of the Wildlife Protection Branch of the Department of Fish and Game deputized pursuant to Section 856 of the Fish and Game Code, deputies appointed pursuant to Section 851 of such code, and county fish and game wardens appointed pursuant to Section 875 of such code are peace officers; provided, that the primary duty of deputized members of the Wildlife Protection Branch, and the exclusive duty, except as provided in Section 8597 of the Government Code, of any other peace officer listed in this subdivision, shall be the enforcement of the provisions of the Fish and Game Code, as such duties are set forth in Sections 856, 851 and 878, respectively, of such code.

(f) The State Forester and such employees or classes of employees of the Division of Forestry of the Department of Conservation and voluntary firewardens as are designated by him pursuant to Section 4156 of the Public Resources Code are peace officers, provided, that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 4156 of such code.

(g) Officers and employees of the Department of Motor Vehicles designated in Section 1655 of the Vehicle Code are peace officers; provided, that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 1655 of such code.

(h) The secretary, chief investigator, and racetrack investigators of the California Horse Racing Board are peace officers; provided, that the primary duty of any such peace officer shall be the enforcement of the provisions of Chapter 4 (commencing with Section 19400) of Division 8 of the Business and Professions Code and Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of the Penal Code. Any such peace officer is further authorized to enforce any penal provision of law while, in the course of his employment, he is in, on, or about any horseracing enclosure licensed pursuant to the Horse Racing Law.

(i) Police officers of a regional park district, appointed or employed pursuant to Section 5561 of the Public Resources Code, and officers and employees of the Department of Parks and Recreation designated by the director pursuant to Section 5008 of such code are peace officers; provided, that the primary duty of any such peace officer shall be the enforcement of the law as such duties are set forth in Sections 5561 and 5008, respectively, of such code.

(j) The State Fire Marshal and assistant or deputy state fire marshals appointed pursuant to Section 13103 of the Health and Safety Code are peace officers; provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 13104 of such code

(k) Members of an arson-investigating unit, regularly employed and paid as such, of a fire protection agency of the state, of a county, city, or district, and members of a fire department of a local agency regularly paid and employed as such, are peace officers, provided, that the primary duty of arson investigators shall be the detection and apprehension of persons who have violated or who are suspected of having violated any fire law, and the exclusive duty, except as provided in Section 8597 of the Government Code, of fire department members other than arson investigators when acting as peace officers shall be the enforcement of laws relating to fire prevention and fire suppression. Notwithstanding the provisions of Section 171c, 171d, 12027, or 12031, members of fire departments other than arson investigators are not peace officers for purposes of such sections except when designated as peace officers for such purposes by local ordinance or, if the local agency is not authorized to act by ordinance, by resolution

(l) The Chief and such inspectors of the Bureau of Food and Drug as are designated by him pursuant to subdivision (a) of Section 216 of the Health and Safety Code are peace officers, provided, that the exclusive duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 216 of such code

(m) Persons designated by a local agency as park rangers, and regularly employed and paid as such, are peace officers, provided, that the primary duty of any such peace officer shall be the protection of park property and preservation of the peace therein Notwithstanding the provisions of Section 171c, 171d, 12027, or 12031, such park rangers are not peace officers for purposes of such sections except when designated as peace officers for such purposes by local ordinance or, if the local agency is not authorized to act by ordinance, by resolution.

(n) Members of a community college police department appointed pursuant to Section 25429 of the Education Code are peace officers; provided that the primary duty of any such peace officer shall be the enforcement of the law as prescribed in Section 25429 of the Education Code

(o) All investigators of the Division of Labor Law Enforcement, as designated by the Labor Commissioner, are peace officers, provided that the primary duty of any such peace officer shall be enforcement of the law as prescribed in Section 95 of the Labor Code

(p) The authority of any peace officer listed in subdivisions (c) through (o), inclusive, extends to any place in the state; provided, that except as otherwise provided in this section, Section 8306 of this code, or Section 8597 of the Government Code, any such peace officer shall be deemed a peace officer only for purposes of his primary duty, and shall not act as a peace officer in enforcing any other law except:

(1) When in pursuit of any offender or suspected offender; or

(2) To make arrests for crimes committed, or which there is probable cause to believe have been committed, in his presence while he is in the course of his employment; or

(3) When, while in uniform, such officer is requested, as a peace officer, to render such assistance as is appropriate under the circumstances to the person making such request, or to act upon his complaint, in the event that no peace officer otherwise authorized to act in such circumstances is apparently and immediately available and capable of rendering such assistance or taking such action."

Amendment 9

On page 40, line 10, strike out "1.195", and insert "1.197".

Amendment 10

On page 40, line 11, strike out "12.5 and 12.6", and insert "10.5 and 12.5".

Set No. 2

Amendment 1

In line 8 of the title of the printed bill, as amended in Assembly September 10, 1975, after "of", insert "and", and to add Sections 108.5, 1858.05, and 1858.15 to,".

Amendment 2

On page 7, line 25, strike out "administrative or judicial proceedings", and insert "judicial proceedings or, at the board's discretion, for any administrative proceedings".

Amendment 3

On page 14, line 25, after "decision", insert "but such a failure shall be reported by the division to the Speaker of the Assembly and the President pro Tempore of the Senate within three months".

Amendment 4

On page 29, between lines 33 and 34, insert "SEC. 1.40. Section 108.5 is added to the Insurance Code, to read: 108.5. "Medical malpractice insurance" means insurance coverage against the legal liability of the insured, and against loss, damage, or expense incident to a claim arising out of the death or injury of any person as the result of negligence or malpractice in rendering professional services by any person who holds a certificate or license issued pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, a license issued pursuant to the Osteopathic Initiative Act, or a license as a health facility pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

SEC. 1.43. Section 1858.05 is added to the Insurance Code, to read: 1858.05. Whenever a written complaint and request for hearing with the commissioner has been filed pursuant to Section 1858, and the complaint concerns medical malpractice insurance, the commissioner shall within 30 days either by order deny the hearing or proceed as provided in Sections 1858.1 or 1858.2. The complainant may petition the court for an order to compel compliance with this section.

SEC. 145. Section 1858.15 is added to the Insurance Code, to read: 1858 15. Once commenced, an examination pursuant to Section 1858 1 shall be promptly conducted and concluded within a reasonable time. If the examination is being conducted as the result of a written complaint and request for hearing filed pursuant to Section 1858, and the complaint concerns medical malpractice insurance, the complainant may petition the court for an order to compel compliance with this section."

Amendment 5

On page 29, line 34, strike out "440", and insert "4040".

Amendment 6

On page 30, line 9, after the period, insert "Except as provided herein, written agreements evidencing such borrowed money shall not be issued in units of less than ten thousand dollars (\$10,000) A mutual insurer authorized to transact medical malpractice insurance, as defined by Section 108 5, may issue such written agreements in units of less than ten thousand dollars (\$10,000) but only to issuees who are eligible to purchase medical malpractice insurance from the insurer."

Amendment 7

On page 32, line 8, strike out "county", and insert "region, or upon a finding by the commissioner that some insured licensees are unable to renew outstanding policies of medical malpractice insurance by virtue of an order prohibiting such renewal by an insurer and that said licensees are not reasonably able to obtain needed insurance coverage through normal channels".

Set No. 3

Amendment 1

On page 21 of the printed bill, as amended in Assembly September 10, 1975, strike out lines 8 through 13, inclusive; and in line 14, strike out "described in", and insert

"(b) No source of collateral benefits introduced pursuant to".

Bill ordered reprinted, and to be re-referred to the Committee on Ways and Means.

MESSAGES FROM THE SENATE

Senate Chamber, September 11, 1975

Mr Spenker. I am directed to inform your honorable body that the Senate on this day passed:

Senate Bill No. 21

DARRYL R WHITE, Secretary of the Senate
By John W Rotane, Chief Assistant Secretary

FIRST READING AND REFERENCE OF SENATE BILLS

The following bill was read the first time, and ordered held at the Desk:

Senate Bill No. 21—An act to add Section 11917 to, and to add Chapter 5.5 (commencing with Section 11920) to Part 3 of Division 2 of, and to repeal Sections 11927 and 11937 of, the Insurance Code, relating to medical malpractice insurance, and making an appropriation therefor.

ADJOURNMENT

At 6:56 p.m., Acting Speaker Foran declared the Assembly adjourned until 9 a.m., Friday, September 12, 1975.

LEO T. McCARTHY, Speaker

ANABEL FLEURY, Minute Clerk

CALIFORNIA LEGISLATURE

1975-76 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNALFIFTY-SIXTH LEGISLATIVE DAY
ONE HUNDRED SEVENTEENTH CALENDAR DAY**IN ASSEMBLY**Assembly Chamber, Sacramento
Friday, September 12, 1975

The Assembly met at 4 45 p m.
Hon. Frank Murphy, Jr., Member of the Assembly, 30th District,
presiding

Chief Clerk James D Driscoll at the Desk.
Assistant Clerk Ray Monday reading.

ROLL CALL

The roll was called, and the following answered to their names—79.

Alatorre	Collier	Keyser	Perino
Antonovich	Craven	Kuox	Priolo
Arnett	Cullen	Lancaster	Ralph
Badham	Davis	Lanterman	Robinson
Banc	Deddeh	Lewis	Rosenthal
Bannai	Dixon	Lockyer	Stiegler
Berman	Duffy	MacDonald	Sieroty
Beverly	Egeland	Maddy	Suitt
Boutwright	Fenton	McAlister	Thomas, Vincent
Briggs	Foran	McLennan	Thomas, William
Brown	Garamendi	McVittie	Thurman
Burke	Goggin	Meade	Torres
Calvo	Greene	Miller	Tueker
Campbell	Gualco	Mohley	Vasconcellos
Carpenter	Hart	Montoya	Vicencia
Chacon	Hayden	Mori	Warren
Chappie	Hughes	Murphy	Wilson
Chel	Ingalls	Nestande	Wornum
Chimbole	Kapiloff	Nimmo	Mr. Speaker
Chne	Keene	Papan	

Quorum present.

PRAYER

The following prayer was offered by the Chaplain, Father Leo McAllister:

As we end this legislative session we thank You, God, that there were among us those who grappled with issues of major import to the people of our state and did so with success.

We thank You for those who tried but failed, and who are ready to try again in a new day.

Help us to heal any wounds we have opened or remove any barriers we have erected between us.

Help us to go forth from here as people of peace and honor to leave rancor and discord to the scattering winds of autumn—AMEN

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Acting Speaker Murphy, Mr. Badham then led the Assembly in the pledge of allegiance to the Flag.

READING OF THE JOURNAL DISPENSED WITH

By unanimous consent, reading of the Journal of the previous legislative day was dispensed with.

REFERENCE OF BILLS TO COMMITTEE

Pursuant to the Assembly Rules, the following bill was referred to committee:

<i>Senate Bill No.</i>	<i>Committee</i>
21	Finance, Insurance, and Commerce

AUTHOR'S AMENDMENTS

Committee on Finance, Insurance, and Commerce

Assembly Chamber, September 12, 1975

Mr. Speaker: The Chairman of your Committee on Finance, Insurance, and Commerce reports:

Senate Bill No. 21

With author's amendments with the recommendation. Amend, and re-refer to the Committee on Finance, Insurance, and Commerce.

McALISTER, Chairman

Senate Bill No. 21—An act to add Section 11917 to, and to add Chapter 5.5 (commencing with Section 11920) to Part 3 of Division 2 of, and to repeal Sections 11927 and 11937 of, the Insurance Code, relating to medical malpractice insurance, and making an appropriation therefor.

Bill read second time.

Consideration of Author's Amendments

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted:

Amendment 1

On page 3, line 40, of the printed bill, as amended in Senate September 9, 1975, strike out "Chapter ____ of The"; and on page 4, line 1, strike out "1975-76 Second Extraordinary Session" and insert "Section 11925".

Amendment 2

On page 5, line 10, after "written", insert "in this state".

Amendment 2.5

On page 5, line 36, strike out "meetings", and insert "meeting".

Amendment 3

On page 7, line 10, strike out "11926", and insert "11927".

Amendment 4

On page 7, line 34, after "association", insert "and shall be appointed by the commissioner".

Amendment 4.5

On page 8, line 39, after "by", insert "the".

Amendment 5

On page 9, line 2, after "the", insert "issuance or".

Amendment 6

On page 9, lines 3 and 4, strike out "lawfully issued or delivered prior to a finding made pursuant to subdivision (a) hereof".

Amendment 7

On page 9, line 5, strike out "renewal, the", and insert "issuance or renewal".

Amendment 8

On page 9, strike out lines 6 and 7; and on line 8, strike out "classifications so that".

Amendment 9

On page 9, line 10, after "so", insert "issuing or".

Amendment 10

On page 10, line 16, after "premium", insert a comma.

Amendment 11

On page 11, line 30, strike out "surplus to policyholders", and insert "net direct premium".

Amendment 12

On page 12, line 27, strike out "surplus to policyholders", and insert "net direct premium".

Amendment 13

On page 14, line 16, after "made", insert "or actions taken".

Bill ordered reprinted, and to be re-referred to the Committee on Finance, Insurance, and Commerce.

REPORTS OF STANDING COMMITTEES**Committee on Ways and Means**

Assembly Chamber, September 12, 1975

Mr Speaker: Your Committee on Ways and Means reports:

Senate Bill No 4

Senate Bill No 24

With amendments with the recommendation. Amend, and do pass, as amended.

FORAN, Chairman

**REQUEST FOR UNANIMOUS CONSENT TO TAKE UP
SENATE BILL NO. 24**

Mr. Keene was granted unanimous consent to take up Senate Bill No. 24, without reference to file, for the purpose of reading the bill a second time and adopting the committee amendments at this time, and that the bill be returned to the third reading file.

Second Reading of Senate Bill No. 24 by Unanimous Consent

Senate Bill No. 24—An act to amend Sections 4040, 11890, 11895, 11896, 11897, 11898, 11900, 11902, 11902 2, 11903, and 11904 of the Insurance Code, relating to medical malpractice insurance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

Bill read second time.

Consideration of Committee Amendments

The following amendments, proposed by the Committee on Ways and Means, were read, and adopted:

Amendment 1

On page 8, line 7, of the printed bill, as amended in Senate September 11, 1975, strike out "or", and insert "and".

Bill ordered reprinted, and to be returned to the third reading file.

**REQUEST FOR UNANIMOUS CONSENT TO TAKE UP
SENATE BILL NO. 24**

Mr. Keene asked for unanimous consent to take up Senate Bill No. 24, without reference to file, for purpose of consideration at this time.

Mr. Miller withheld unanimous consent.

Motion to Temporarily Suspend the Rules

Mr. Keene moved that the Rules be temporarily suspended for the purpose of taking up Senate Bill No. 24, without reference to file, for purpose of consideration at this time.

Rules temporarily suspended by the following vote:

AYES—72

Alatorre	Collier	Keene	Perino
Antonovich	Craven	Keysor	Prulo
Arnett	Cullen	Lancaster	Ralph
Bannai	Davis	Lanterman	Robinson
Berman	Deddeh	Lewis	Rosenthal
Beverly	Dixon	Lockyer	Siegler
Boatwright	Duffy	MacDonald	Sieroty
Briggs	Egeland	Maddy	Switt
Brown	Fenton	McAhter	Thomas, Vincent
Burke	Garamendi	McLennan	Thomas, William
Calvo	Goggin	McVittie	Thurman
Campbell	Greene	Meade	Torres
Carpenter	Gualco	Mobley	Tucker
Chacon	Hart	Mori	Vasconcellos
Chappie	Hayden	Murphy	Vicencia
Chel	Hughes	Nestande	Warren
Chimbole	Ingalls	Nimmo	Wornum
Chne	Kapiloff	Papan	Mr. Speaker

NOES—1

Miller

CONSIDERATION OF SENATE BILL NO. 24

Senate Bill No. 24 (Behr)—An act to amend Sections 160, 800, 804, 2100 6, 2101, 2116, 2123 1, 2123 2, 2123 3, 2123 9, 2123.10, 2124, 2124.2, 2124.45, 2124 7, 2372, 2372 5, 2454, 2456, 2458, and 6146 of, and to add Sections 2101 7 and 2601 5 to, the Business and Professions Code, to amend Sections 3333 1 and 3333 2 of the Civil Code, to amend Sections 340 5, 364, 667.7, and 1295 of the Code of Civil Procedure, to amend Sections 4040, 11588, 11890, 11895, 11896, 11897, 11898, 11900, 11902, 11902 2, 11903, and 11904 of, and to add Sections 108.5, 1858 05, and 1858 15 to, the Insurance Code, and to amend Section 830.3 of the Penal Code, relating to medical malpractice, and to amend Assembly Bill 1 of the 1975-76 Second Extraordinary Session making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

Bill read third time, and presented by Mr. Keene.

Urgency Clause

Urgency clause read, and adopted by the following vote:

AYES—70

Alatorre	Craven	Keene	Priolo
Antonovich	Cullen	Keysor	Ralph
Arnett	Davis	Lancaster	Rosenthal
Bane	Deddeh	Lanterman	Siegler
Bannai	Dixon	Lewis	Sieroty
Beverly	Duffy	Lockyer	Sutt
Boatwright	Egeland	MacDonald	Thomas, Vincent
Briggs	Fenton	Maddy	Thomas, William
Burke	Foran	McAlister	Thurman
Calvo	Garamendi	McLennan	Torres
Campbell	Goggin	McVittie	Tucker
Carpenter	Greene	Mobley	Vasconcellos
Clason	Gualco	Montoya	Vicencia
Chappie	Hart	Mori	Warren
Chel	Hayden	Murphy	Wornum
Chimbole	Hughes	Nimmo	Mr Speaker
Cline	Ingalls	Papan	
Collier	Kapiloff	Perino	

NOES—4

Miller	Nestande	Robinson	Wilson
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The question being on the passage of the bill.
Bill passed by the following vote:

AYES—70

Alatorre	Craven	Keene	Priolo
Antonovich	Cullen	Keyser	Ralph
Arnett	Davis	Lancaster	Rosenthal
Bane	Deddeh	Lanterman	Siegler
Bannai	Dixon	Lewis	Sieroty
Beverly	Duffy	Lockyer	Suitt
Boatwright	Egeland	MacDonald	Thomas, Vincent
Briggs	Fenton	Maddy	Thomas, William
Burke	Foran	McAlister	Thurman
Calvo	Garamendi	McLennan	Torres
Campbell	Goggin	McVittie	Tucker
Carpenter	Greene	Mobley	Vasconcellos
Chacon	Gualco	Montoya	Vicencia
Chappie	Hart	Mori	Warren
Chel	Hayden	Murphy	Wornum
Chimbole	Hughes	Nimmo	Mr. Speaker
Cline	Ingalls	Papan	
Collier	Kapiloff	Perino	

NOES—4

Miller	Nestande	Robinson	Wilson
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Bill ordered transmitted to the Senate.

REQUEST FOR UNANIMOUS CONSENT TO PRINT IN JOURNAL

Mr. Keene was granted unanimous consent that the following Opinion of Legislative Counsel be printed in the Journal.

Opinion of Legislative Counsel

Sacramento, September 12, 1975

Honorable Art Torres
Assembly Chamber

Malpractice — #19849

Dear Mr. Torres:

Question

You have asked us whether the provisions of Assembly Bill No. 1 of the 1975-76 Second Extraordinary Session,¹ as enrolled, relating to limitations on damages, modifications of the collateral source rule, changes in the statute of limitations, and regulation of attorney's contingency fee contracts would be applied to causes of actions accruing, or contracts entered into, prior to the effective date of that bill.

Opinion

In the very short time available for the preparation of this opinion, we have concluded that the provisions of A.B. 1 would apply only to causes of actions accruing, or contracts entered into, after the effective date of A.B. 1 (2nd Ex Sess.) as enrolled, except with respect to those provisions relating to limitations of actions, which would be given limited retroactive effect as stated in the following analysis.

¹ Hereinafter referred to as A.B. 1.

Analysis

Statutes are presumed to be only prospective in their operation, and not retroactive, unless a contrary intent is expressly stated or necessarily implied (*McBarron v. Kimball* (1962), 210 Cal. App. 2d 218). As there is no provision of A.B. 1 that expressly provides that the bill would operate retroactively, that bill would be construed to operate only prospectively.

However, even though a statute is construed only to operate prospectively, a prospective operation which affects procedures or remedies may affect situations that existed prior to the enactment of the statute. Thus, if procedures or remedies are modified by a statute, and if those modifications of procedures affect situations that existed prior to the enactment of the statute, the statute may be construed to have retroactive effects (*Arques v. National Superior Co* (1945), 67 Cal. App. 2d 763). Thus, even though A.B. 1 would be construed only to operate prospectively, insofar as A.B. 1 modifies procedures and remedies that affect situations existing prior to its enactment, A.B. 1 could be construed to have retroactive effects (see 48 Cal. L.R. 216).

The Legislature may validly change rules of civil procedure, or remedies, and such changes may be made applicable to pending actions where the cause of action accrued prior to the change; provided, as stated below, that the change of procedure or modification of remedies does not deprive a person of a substantial right or impair the obligation of contract (*County of San Bernardino v. Industrial Accident Commission* (1933), 217 Cal. 618), and so long as a reasonably equivalent remedy remains (*Kerchoff-Cuzner Mill and Lumber Co. v. Olmstead* (1890), 85 Cal. 80).

However, any retroactive application of a statute that impairs existing obligations of contract is invalid (*Brown v. Ferdon* (1936), 5 Cal. 2d 227), unless the retroactive application of that statute is a valid exercise of the state's police power, subject to certain limitations (*El Paso v. Simmons* (1964), 13 L. Ed. 2d 446, 455). In addition, a right to sue for damages is a right that vests when the cause of action arises and it is not within the power of the Legislature to impair such vested right (*Wexler v. City of Los Angeles* (1952), 110 Cal. App. 2d 740). "Where a statute operates immediately to cut off an existing remedy and by retroactive application deprives a person of a vested right, it is ordinarily invalid because it conflicts with the due process clauses of the federal and state constitutions . . ." (*California Employment Stabilization Commission v Payne* (1947), 31 Cal. 2d 210 at 215).

Thus, a statute will not generally be applied so as to impair existing obligations of contract, or deprive a person of a vested right by modifying available remedies, without providing reasonably equivalent remedies, or by changing applicable procedural rules.

A.B. 1 contains several provisions which may affect contracts or causes of action that arose prior to its effective date. We have discussed the applicability of these provisions to such existing causes of action or contracts below.

LIMITATION OF ACTIONS

A.B. 1 would shorten the time within which an action to which the bill is applicable must be brought.

The general rule with respect to the retroactivity of statutes of limitations is stated in *Baldwin v City of San Diego* (1961), 195 Cal App. 2d 236, that while the Legislature may validly shorten the time for the bringing of actions it must as to those causes of action not already barred by an existing limitation allow a reasonable time for the claimant to file his claim or bring his action. Where a statute shortening the time within which an action may be commenced cuts off a vested right or allows unreasonable time for the bringing of an action, the courts will permit the action to be brought within such time as may be found reasonable (*Day v. Metropolitan Life Ins Co* (1936), 11 Cal App. 2d 681, 684).

Therefore, the provisions in A.B. 1 which would amend Section 340 5 of the Code of Civil Procedure to shorten the time for the commencement of those actions to which it is applicable would be applied to existing causes of action (see *Security Nat. Bank v Sartori*, 34 Cal. App. 2d 408, 414-415) but would not be applied in such a manner as to defeat those causes of action for professional negligence for which the prior statute of limitations had not run at the time of its effective date, but the courts would allow a reasonable time for that action to be brought.

DAMAGES

A.B. 1 contains two general provisions which would impose limitations on the right of a plaintiff to recover damages. Section 3333 2 of the Code of Civil Procedure, which would be added by A.B. 1 would impose an absolute limit upon damages for noneconomic loss. Section 667 7 of the Code of Civil Procedure which would be added by A.B. 1 would provide for periodic installments for the payment of damages and would establish the method of distribution of the future installments on the death of the judgment creditor.

With respect to statutes imposing limitations on damages it was held in the leading case of *Lavieri v. Ulysses* (1962 Conn.), 180 A 2d 632; annotated at 98 A.L.R. 2d 1096, that a statute limiting damages in dram shop actions did not apply retroactively to causes of action arising prior to the effective date of the statute. *Lavieri* has been followed in numerous cases relating to the application of statutes modifying damages (see cases collected in 98 A L R 2d 1105, et seq; see also A.L.R. 2d later case service). Only one reported decision has reached a contrary result, and that case involved distinguishing facts giving rise to a different rule of statutory construction (*Lichter v Scher* (1956 Ill.), 138 N.E. 2d 66).

While California has not expressly ruled on the question, it was held in a closely related case that a statute establishing the rate of interest to be paid in an action for conversion was not to be retroactively applied for the reason that the interest was in the nature of damages (*White v. Lyons* (1871), 42 Cal 279, 284). Thus, under existing precedent the limitation of damages provisions of A.B. 1 would not apply to injuries sustained as the result of medical malpractice to which the bill is applicable prior to its effective date.

With respect to the provisions in the bill establishing periodic future payments for damages the question is novel and has never been decided.

A statute that modifies available remedies will be applied to causes of action that arose prior to the effective date of that statute if the new remedy is substantially equivalent to the remedy that existed when the cause of action arose. In *County of San Bernardino*, supra, the statute in force at the time of the injury gave the employer, in an industrial accident case brought by an employee, the right to obtain a lien upon a judgment or settlement obtained as a result of the industrial accident. A statute which became effective before the employee obtained a recovery from her employer allowed the employer to be granted a credit to the employer for a judgment or settlement obtained by the employee as a result of the industrial accident. The court held that although the statute modified existing remedies, the new remedy was equivalent to the remedy that existed when the cause of action arose, and thus, application of the new remedy to a situation that existed before the new remedy was created did not deprive the employee of a substantial right.

However, the effect of statutes in another comparable situation, statutes changing the manner and method of distribution of a recovery in a wrongful death action, have been determined by the courts of a number of states.

In *In re Dance's Estate* (1958 Ill.), 147 N E 2d 385 it was held that a statute modifying the method in which damages in a wrongful death action are to be distributed would not be retroactively applied to effect the right of the persons that were entitled to the benefits prior to the enactment of the statute. The court reasoned that the rights of those persons became vested at the time the death occurred. The rule is generally followed in all jurisdictions (see cases collected in 66 A L R. 2d 144 4).

The provisions for periodic payments provided by A B 1 may be determined to provide a substantially equivalent remedy to those existing under prior law, in which case they would not affect a substantial right and could be applied to causes of action that arose prior to the effective date of A B 1. However, subdivision (c) of Section 667 7 would, upon the death of a judgment creditor (plaintiff) who is entitled to receive periodic payments, permit a court to award remaining damages to a limited class of persons. That provision would impair the present right of the judgment creditor to distribute his estate as he chooses, and if this is determined to be a vested right, that provision would not be applied to affect causes of action that arose prior to the effective date of A B 1. While this provision could be considered prospective as to actions accrued prior to the effective date of the bill, since the judgment would be entered after the effective date, such a construction would change the rights of the parties existing at the time of the accrual of the action. Thus, we think it would be a retrospective application which is not expressly or by necessary implication called for by the bill.

COLLATERAL SOURCE RULES

Sections 24 5 of A B 1 would add Section 3333 1 to the Civil Code. Section 3333 1 would abrogate the so-called "collateral source rule" (see, generally, *Helpend v. Southern Cal. Rapid Transit Dist.* (1970),

2 Cal. 3d 1), under which evidence of compensation received by the plaintiff for his injuries from a source wholly independent of the tortfeasor is excluded in the negligence action, and allow evidence of such benefits to be introduced in the negligence action. In addition, it would prohibit independent sources who provide direct benefits from recovering by way of subrogation in the negligence action the amount paid to the plaintiff unless subrogation is expressly authorized by statute.

Subdivision (a) of Section 3333.1 would provide for the introduction into evidence of benefits received from collateral sources, and thus may serve to reduce damages recovered or received by the plaintiff. It was held in *Campbell v. New York Evening Post* (1927 N.Y.), 157 N.E. 153 that a statute authorizing, for libel suits, the introduction into evidence of damages recovered or received by the plaintiff from other sources, thereby reducing the damages, could not be applied retroactively. The court based its holdings on the rule that a statute diminishing the liability of the defendant is not to be applied retroactively.

Thus, that case indicates that the provisions under consideration, by reducing the amount of damages to which the plaintiff would be entitled in the action would fall within the proscription against retroactive application of statutes reducing damages in an action based upon a prior injury.

As we have noted, California follows the rule that statutes modifying liability are not to be construed retroactively. Thus, we are of the view that *Campbell* would be followed in this state, and that accordingly the provisions in A.B. 1 authorizing the introduction into evidence of collateral source benefits would not be applied retroactively.

Inasmuch as subdivision (b) of Section 3333.1 would provide for the abolition of the subrogation rights of collateral sources, we think the effect of the provision would be to abolish a substantive right. Since a statute cannot, ordinarily consistent with the Constitution, deprive a person of a contractual or vested property right (see *Estate of Wellings* (1925), 197 Cal. 189, 195), the provision in question could not operate retroactively to deprive persons of subrogation rights in existence at the time A.B. 1 becomes effective. In this connection we point out that the measure would not affect subrogation rights authorized by statute.

In light of the foregoing, it is our view that the provisions of A.B. 1 relative to the collateral source rule would not operate retroactively to causes of action arising before its effective date or to subrogation rights, that were in existence prior to that time.

ATTORNEY'S FEES

A.B. 1 would establish limitations on the fees that may be contracted for, or collected by, attorneys in contingency fee contracts relative to those malpractice actions to which the bill is applicable.

As stated above, both the federal and state Constitutions contain provisions prohibiting the state from enacting any law impairing the obligations of contracts, unless the interference with the obligations of contracts involves a valid exercise of the police power.

On the other hand, licensees in a business already regulated by the state accept such licenses subject to the possibility of further regulation on the same subject matter (*Castleman v. Scudder* (1947), 81 Cal. App. 2d 737; see also *Veiz v. Sixth Ward Building and Loan Ass'n.*, 310 U.S. 32).

By reducing the amount of the fee to which an attorney is entitled under a contingent fee agreement, the obligation of a contract would be impaired if the statute were applicable to contracts entered into prior to the effective date of A B 1. However, a statutory construction that would impair existing obligations is not favored, and statutory provisions will not be applied retroactively so as to impair existing obligations unless the intention of the Legislature demands it (*McKinney v. Ruderman* (1962), 203 Cal App 2d 109; *Aetna Casualty and Surety Co v. Industrial Accident Commission*, 30 Cal 2d 388).

The provisions of A B 1 do not clearly demand the application of its limitations on attorney's fees to those contracts made prior to the effective date of A B 1. Those provisions do prohibit the collection of, as well as contracting for attorney's fees in excess of those limits, but the limitation on the collection of attorney's fees would, we think, only be related to those contracts entered into after the effective date of A.B. 1 in order to avoid the impairment of existing obligations.

Very truly yours,

GEORGE H. MURPHY
Legislative Counsel
By William K Stark
Deputy Legislative Counsel

**REQUEST FOR UNANIMOUS CONSENT TO TAKE UP
SENATE BILL NO. 4**

Mr. McAlister was granted unanimous consent to take up Senate Bill No. 4, without reference to file, for the purpose of reading the bill a second time and adopting the committee amendments at this time.

Second Reading of Senate Bill No. 4 by Unanimous Consent

Senate Bill No. 4—An act to amend Section 4040 of, and to add Sections 108.5, 1858.05, and 1858.15 to, the Insurance Code, relating to medical malpractice insurance, and declaring the urgency thereof, to take effect immediately.

Bill read second time.

Consideration of Committee Amendments

The following amendments, proposed by the Committee on Ways and means, were read, and adopted:

Amendment 1

On page 3, line 40, of the printed bill, as amended in Assembly September 5, 1975, strike out "with respect to a", and on page 4, strike out lines 1 through 5, inclusive, and insert "as provided herein written agreements evidencing such borrowed money shall not be issued in units of less than ten thousand dollars (\$10,000) A mutual insurer authorized to transact medical malpractice insurance, as defined by Section 108.5, may issue such written agreements in units of less than ten thousand dollars (\$10,000) but only to issuees who are eligible to purchase medical malpractice insurance from the insurer No commission or promotion expense".

Bill ordered reprinted, and to be returned to the third reading file.

**REQUEST FOR UNANIMOUS CONSENT TO TAKE UP
SENATE BILL NO. 4**

Mr. McAlister was granted unanimous consent to take up Senate Bill No. 4, without reference to file, for purpose of consideration at this time.

Consideration of Senate Bill No. 4

Senate Bill No. 4 (Marks)—An act to amend Section 4040 of, and to add Sections 108 5, 1858.05, and 1858 15 to, the Insurance Code, relating to medical malpractice insurance, and declaring the urgency thereof, to take effect immediately.

Bill read third time, and presented by Mr. McAlister.

Urgency Clause

Urgency clause read, and adopted by the following vote:

AYES—75

Alatorre	Collier	Keysor	Perino
Antonovich	Craven	Knox	Priolo
Arnett	Cullen	Lancaster	Ralph
Bane	Davis	Lanterman	Robinson
Bannai	Deddeh	Lewis	Rosenthal
Berman	Dixon	Lockyer	Siegler
Beverly	Duffy	MacDonald	Sieroty
Boatwright	Egeland	Maddy	Sutt
Briggs	Fenton	McAlister	Thomas, Vincent
Brown	Garamendi	McLennan	Thomas, William
Burke	Goggia	McVittie	Thurman
Calvo	Greene	Meade	Torres
Campbell	Gualco	Miller	Tucker
Carpenter	Hart	Mobley	Vasconcellos
Chacon	Hayden	Mori	Vicencia
Chappie	Hughes	Murphy	Warren
Chel	Ingalls	Nestande	Wornum
Chimbole	Kapiloff	Nimmo	Mr. Speaker
Cline	Keene	Papan	

NOES—None

The question being on the passage of the bill.

Bill passed by the following vote:

AYES—75

Alatorre	Collier	Keysor	Perino
Antonovich	Craven	Knox	Priolo
Arnett	Cullen	Lancaster	Ralph
Bane	Davis	Lanterman	Robinson
Bannai	Deddeh	Lewis	Rosenthal
Berman	Dixon	Lockyer	Siegler
Beverly	Duffy	MacDonald	Sieroty
Boatwright	Egeland	Maddy	Sutt
Briggs	Fenton	McAlister	Thomas, Vincent
Brown	Garamendi	McLennan	Thomas, William
Burke	Goggia	McVittie	Thurman
Calvo	Greene	Meade	Torres
Campbell	Gualco	Miller	Tucker
Carpenter	Hart	Mobley	Vasconcellos
Chacon	Hayden	Mori	Vicencia
Chappie	Hughes	Murphy	Warren
Chel	Ingalls	Nestande	Wornum
Chimbole	Kapiloff	Nimmo	Mr. Speaker
Cline	Keene	Papan	

NOES—None

Bill ordered transmitted to the Senate.

RECESS

At 5:10 p.m., Acting Speaker Murphy declared the Assembly recessed.

REASSEMBLED

At 10:16 p.m., the Assembly reconvened.

Hon. Leo T. McCarthy, Speaker of the Assembly, presiding.

MESSAGES FROM THE SENATE

Senate Chamber, September 12, 1975

Mr. Speaker—I am directed to inform your honorable body that the Senate on this day concurred in Assembly amendments to:

Senate Bill No. 4
Senate Bill No. 24

DARRYL R. WHITE, Secretary of the Senate
By John W. Rovane, Chief Assistant Secretary

Senate Chamber, September 12, 1975

Mr. Speaker: I am directed to inform your honorable body that the Senate on this day adopted:

Senate Concurrent Resolution No. 4

DARRYL R. WHITE, Secretary of the Senate
By John W. Rovane, Chief Assistant Secretary

FIRST READING AND REFERENCE OF SENATE BILLS

The following resolution was read:

Senate Concurrent Resolution No. 4—Relative to final adjournment of the 1975-76 Second Extraordinary Session of the Legislature.

REQUEST FOR UNANIMOUS CONSENT TO TAKE UP
SENATE CONCURRENT RESOLUTION NO. 4

Speaker McCarthy was granted unanimous consent to take up Senate Concurrent Resolution No. 4 without reference to committee, print, or file.

Consideration of Senate Concurrent Resolution No. 4

Senate Concurrent Resolution No. 4—Relative to final adjournment of the 1975-76 Second Extraordinary Session of the Legislature

Resolution read, and adopted by the following vote:

AYES—84

Alatorre	Craven	Kapiloff	Priolo
Bane	Cullen	Keysor	Ralph
Bannal	Davis	Lancaster	Rosenthal
Berman	Deddeh	Lanterman	Siegler
Beverly	Dixon	Lewis	Sietoty
Boatwright	Duffy	Lockyer	Snitt
Briggs	Egeland	Maddy	Thomas, Vincent
Brown	Fenton	McVittie	Thomas, William
Burke	Foran	Meade	Tburman
Calvo	Garamendi	Mobley	Torres
Campbell	Greene	Montoya	Tucker
Carpenter	Gualco	Mori	Vasconcellos
Chacon	Hart	Nestande	Vicencia
Chappe	Hayden	Nimmo	Wilson
Chimbole	Hughes	Papan	Wornum
Collier	Ingalls	Perino	Mr Speaker

NOES—10

Antonovich	Chine	Knox	Murphy
Arnett	Goggin	McAhster	Robinson
Chel	Krene		

Resolution ordered transmitted to the Senate.

VOTE CHANGES

The following Members were granted unanimous consent to record their votes:

On the urgency clause to Senate Bill No. 24, and on the passage of the bill: Messrs. Maddy, Alatorre, Dixon, and Burke, "Aye"; Mr. Torres, "No" to "Aye"; Mr. Mobley, "Aye", Mr. Miller, "No".

REPORTS OF STANDING COMMITTEES**Committee on Health**

Assembly Chamber, September 12, 1975

Mr Speaker Your Committee on Health reports

Assembly Bill No 2

Assembly Bill No 13

Assembly Bill No. 6

Assembly Bill No 31

Without action.

KEENE, Chairman

Committee on Finance, Insurance, and Commerce

Assembly Chamber, September 12, 1975

Mr Speaker Your Committee on Finance, Insurance, and Commerce reports.

Assembly Bill No. 3

Assembly Bill No. 20

Assembly Bill No 8

Assembly Bill No 30

Assembly Bill No. 16

Assembly Bill No. 34

Without action.

McALISTER, Chairman

Assembly Chamber, September 12, 1975

Mr. Speaker Your Committee on Finance, Insurance, and Commerce reports:

Senate Bill No 21

Without action.

McALISTER, Chairman

Above bill ordered transmitted to the Senate.

Committee on Judiciary

Assembly Chamber, September 12, 1975

Mr. Speaker: Your Committee on Judiciary reports

Assembly Bill No. 7

Assembly Bill No. 22

Assembly Bill No. 9

Assembly Bill No. 23

Assembly Bill No. 11

Assembly Bill No. 24

Assembly Bill No. 14

Assembly Bill No. 25

Assembly Bill No. 15

Assembly Bill No. 26

Assembly Bill No. 17

Assembly Bill No. 27

Assembly Bill No. 18

Assembly Bill No. 29

Assembly Bill No. 19

Assembly Bill No. 32

Assembly Bill No. 21

Assembly Bill No. 33

Without action.

MILLER, Chairman

Assembly Chamber, September 12, 1975

Mr. Speaker: Your Committee on Judiciary reports.

Senate Bill No. 1

Senate Bill No. 7

Without action.

MILLER, Chairman

Above bills ordered transmitted to the Senate.

Committee on Rules

Assembly Chamber, September 12, 1975

Mr. Speaker: Your Committee on Rules reports:

Senate Concurrent Resolution No. 3

Without action.

RALPH, Chairman

Above resolution ordered transmitted to the Senate.

MESSAGES FROM THE SENATE

Senate Chamber, September 15, 1975

Mr. Speaker: I am directed to inform your honorable body that the Senate returns without further action:

Assembly Bill No. 5

Assembly Bill No. 28

Assembly Bill No. 12

Assembly Bill No. 35

DARRYL R. WHITE, Secretary of the Senate

By John W. Rovane, Chief Assistant Secretary

BILLS REMAINING ON INACTIVE FILE

The following bill remained on the Inactive File, without further action:

Assembly Bill No. 4.**ADJOURNMENT SINE DIE**

At 10:18 p.m., pursuant to the provisions of Senate Concurrent Resolution No. 4, Speaker McCarthy declared the Assembly adjourned sine die for the 1975-76 Second Extraordinary Session of the Legislature.

LEO T. MCCARTHY, Speaker

ANABEL FLEURY, Minute Clerk